STATE OF CALIFORNIA

MEETING OF THE

CALIFORNIA INSPECTION & MAINTENANCE REVIEW

COMMITTEE

Tuesday, February 28, 2006

Emeryville City Hall

1333 Park Avenue

Emeryville, California

MEMBERS PRESENT:

VICTOR WEISSER, Chairman

TYRONE BUCKLEY

PAUL ARNEY

JOHN HISSERICH

JEFFREY WILLIAMS

DENNIS DECOTA

JUDE LAMARE

ROBERT PEARMAN

GIDEON KRACOV

ROGER NICKEY

BRUCE HOTCHKISS

MEMBERS ABSENT:

CHUCK FRYXELL

ALSO PRESENT:

ROCKY CARLISLE, Executive Officer

INDEX **PAGE**

P R O C E E D I N G S

CHAIR WEISSER: Okay, ladies and gentlemen, if I could ask folks to settle in, I'm going to call the February 28, 2006, meeting of the California Inspection and Maintenance Review Committee to order and welcome you all to the wonderful city of Emeryville, which still hasn't blown away. Those of you who came up last night experienced what I characterize as a pretty unique Bay Area event. We had winds in excess of 95 miles an hour on Angel Island, 70 miles an hour at SFO, so it had to be a cute flight for those of you from our great Southland who winged their up at the wrong time. In any event, I want to once again express my appreciation to the City of Emeryville for allowing us to use this wonderful space, this historic space, of this restored City Hall. We will try to do as we often do, take a brief break in the morning, try to break noonish for lunch and come back and we will finish up on or before time. We have a very full agenda, so I want to give one more absolutely vital piece of information and that, of course, is the key to the restrooms. The restrooms reside over the drawbridge and if you're a woman, you have to press a code 3 - 5. If you're a man, 5 - 3. The man's number is higher to reflect the average body wear of men, which is far in excess that of women. I think first what we'll do, just to get on the record, is do a little role call and I'll start from my far

left and ask members just to introduce themselves.

MEMBER BUCKLEY: Tyrone Buckley.

MEMBER ARNEY: I'm Paul Arney.

MEMBER HISSERICH: John Hisserich.

MEMBER WILLIAMS: Jeffrey Williams.

MEMBER DECOTA: Dennis DeCota.

CHAIR WEISSER: Vic Weisser.

MEMBER LAMARE: Jude Lamare.

MEMBER PEARMAN: Bob Pearman.

MEMBER KRACOV: Gideon Kracov, how's that for timing?

CHAIR WEISSER: The wind just blew you in, Gideon.

MEMBER NICKEY: Roger Nickey.

MEMBER HOTCHKISS: Bruce Hotchkiss.

CHAIR WEISSER: Okay, this is very, very good. This is the best attendance that we've had. We're all present and accounted for save our one missing member from the Air District and we're wishing him good health, speedy recovery, and would love to see his presence at these meetings.

- o0o -

The first order of business calls for approval of our minutes from the January 24, 2006, meeting.

MEMBER LAMARE: So moved.

MALE MEMBER: Second.

CHAIR WEISSER: Are their any comments regarding the minutes? Hearing none, all in favor of adopting the minutes, please

signify by saying aye.

ALL MEMBERS: Aye.

CHAIR WEISSER: Are there any opposed? Hearing none, the minutes are hereby adopted.

- o0o -

CHAIR WEISSER: We'll move onto our next order of business which is to ask our Executive Officer, Rocky Carlisle to give us an updated Activity Report and then follow that with a discussion of legislation. Rocky?

MR. CARLISLE: Thank you, Mr. Chairman. It's kind of a lengthy update, but I wanted to start off with the report outline for the 2006 report that I hope to have the draft done this next month. But some of the topics we should be ready to report on is a Preconditioning Report, which is already finished. Consumer Information Report, that is finished and that was submitted to the legislature last summer, but I thought we could put it back in this for formal submittal. Program avoidance document, we're working on that one. There are a number of components to that, but we should be done with that this month. The Organizational Placement of Smog Check, we did an issue paper on that. I was going to re-include that in this report. And then, finally, the improved station performance through tighter cut points. That document is written by Sierra Research and we had a presentation by them and the Air Resources Board. In

addition, I was just going to touch on future topics like we did in the last report, which I thought we could include something to the effect of what's a Smog Check program going to look like in 2010, just so the legislature's aware that it should probably be changing in the not-too-distant future if for no other reason, technology. Specifically OBD II and its capabilities. And then, finally, I was going to reiterate from the 2004 report those items that we recommended that have not yet had any action on. One would be annual Smog Check inspections, annual inspections of high-mileage vehicles, restoring the funding for enforcement and providing a specialized prosecution unit within the Attorney General's office, and last, but certainly not least, the BAR budget repayment. So, if there's no other issues, then I will move forward with these as the topics.

CHAIR WEISSER: Well, let's discuss this for a moment, Rocky. It would seem to me as I mentioned to you prior to the meeting that we should add, in terms of reiteration of items from the 2004 report, the smoke test. I'm wondering, and I seek the advice of the Committee Members whether or not we indeed do want to reiterate the issue associated with organizational placement of the program. And I'm up for any sort of discussion. Do we want to put that back in a report or resubmit the same recommendation we put in last year. We don't need to have an answer on that today, but I want

people to give some thought to that. That idea did not fair well either in our discussions with the Administration, nor in the legislature. Yet, the idea may still enjoy support among a majority of Members of the Committee. So that's something we want - it seems to me, we want to think about. I'd be interested in your talking a little bit more about what should the Smog Check program look like in 2010. You mentioned that the intention of this would be to alert readers, the legislature and the Administration of our views as to how technology might impact the program. Is that accurate Rocky?

MR. CARLISLE: Yes.

CHAIR WEISSER: And you mentioned OBD II. I'm curious if it was deliberate or an oversight that you didn't mention remote sensing as an aspect or an element -

MR. CARLISLE: No, this was just kind of an open item and OBD II popped up real quick, but remote sensing is another issue. I'm -

CHAIR WEISSER: And - I'm sorry.

MR. CARLISLE: I've actually got two speakers lined up for the next meeting. One is going to be from the Alliance of Automobile Manufacturers to talk to the Committee about their perspective, their version or their view, if you will, of OBD II and give the Committee an idea of what kind of money has been spent from their side. I mean, we look at it

from the inspection side the savings, but the costs are huge on the manufacturers' side as well. And the other speaker is going to be from the Tool and Equipment Institute. They're going to speak on standalone OBD II test equipment that are currently being used in other states that do perform the test and do communicate with some form of vehicle information database.

CHAIR WEISSER: Okay. Are there any other questions on this item from - I'll open it up to the public when we get through the - well, no. As a matter of fact, I think on this issue, is there anything that anybody from the public would like to say on this? Okay, let's move on.

MR. CARLISLE: Okay, under the next tab in your book behind Item 2, under the Horton letter. This is the response to Shirley Horton, Assembly Woman from the 78th District. And, as you know, we had a letter from her a while back. It was received by us January 9th, as I recall. And I was just trying to collect the data and the information necessary to reply to her questions. And the way I read the letter, there were essentially eight questions. For example, one - according to law, how many vehicles is the Bureau of Automotive Repair required to direct to test-only? Why did the Air Resources Board indicate that the State had committed to direct two million vehicles per year to test-only stations? Three - what are the emissions reduction

credits the State receives by directing vehicles to test-only stations? Four - how many vehicles were required to be directed to test-only to comply with the State of Limitation Plan? Five - within the context of the SIP, is California required to direct vehicles to test-only stations using a high-emitter profile model? Six - if yes to the previous question, what portion of directed vehicles would be categorized as high emitters? Seven - is it possible for California to receive the same emissions credits by directing only high-emitters to test-only stations? And, finally, eight - if no to the previous question, what are the incremental benefits in terms of emissions reductions that are being achieved by sending non-high-emitting vehicles to test-only stations versus Gold Shield stations? So, what I did, I met with Tom Kakett and Dick Ross, James Goldstein, Kathy Runkle at BAR and I wanted to collect basically as much information as I could, and using the State of Limitation Plan and the July 12, 2002, report, the program evaluation, I developed these responses. Now, these are a starting point. I'm certainly open to anything the Committee wants to add or subtract, but some of these are fairly straight forward. For example, on responding to question one, the Health and Safety Code is pretty straight forward. It says at a minimum, 15 percent. The true question here is 15 percent of what and that's where -

MEMBER DECOTA: I believe it says to show the capacity to test 15 percent.

MR. CARLISLE: Yes, but -

MEMBER DECOTA: There's a difference between minimum and capacity.

CHAIR WEISSER: Could you identify yourself for the record?

MEMBER DECOTA: Oh, I'm sorry. Dennis DeCota. I think it's important, also, that as you go through this, that the staff and especially the Committee be aware of the legislative intent of the Automotive Repair Act as it relates to Smog Check and how does this overview and question area relate to the intent of the program. Because I think it would be only prudent for us to be able to take and understand what was intended to be and what is. And, in order to take and make a recommendation of how to get there in a manner that would be fair to industry, fair to the consumer, and improve air quality. And I think that is what we have to do and not necessarily in the order that I just said, all right.

MR. CARLISLE: No, I don't -

CHAIR WEISSER: Thank you, Dennis. I think Rocky, what you need to take the take-home message in this comment from Committee Member DeCota is even this very simple question raises issues from people coming from different perspectives. So, we're going to have to approach this surgically and very carefully to make sure that we're capturing the full panoply

of views on this issue.

MR. CARLISLE: I would agree, but that's why I added the last issue, key question, is what are the vehicles subject to the Smog Check program. And the reason I bring that up is because in 2000, a legal opinion was issued, both by leg counsel and also DCA Legal that those vehicles subject to the program were the earliest model year, I believe at that time it was a '75, up to the current-model year, which today would include a 2006. Their argument for including the first two model years at that time, which were exempt from biannual, was that they were subject to change of ownership. In 2004, legislation changed that. Now we have the first four model years that are no longer subject to change of ownership. So if we follow that thinking through, and I'm not an attorney, and maybe Mr. Pearman could help me out here -

CHAIR WEISSER: Wisely, the record will note Mr. Pearman shaking his head laterally, strongly, east to west.

MR. CARLISLE: But, if we follow that thinking through to 2006, then that would dictate if the two years before were kept in because of change of ownership, you'd almost have to exempt them out now, because they're out of change of ownership.

CHAIR WEISSER: Rocky, were those separate legal opinions or was it a joint legal opinion?

MR. CARLISLE: As I recall, they were separate legal opinions.

CHAIR WEISSER: Would you be able to provide the Committee with copies of those opinions?

MR. CARLISLE: I have attempted, and I will continue in my endeavor. I've been trying for about four months to get copies of those opinions.

CHAIR WEISSER: I can't understand why it would be difficult to get a copy of a legal opinion.

MR. CARLISLE: I don't either, but I'm -

CHAIR WEISSER: Have you written a letter?

MR. CARLISLE: I'll have to look. I believe I have.

CHAIR WEISSER: Good.

MR. CARLISLE: I've written at least email on several occasions. One of the issues is, unless they've been released to the public, it falls under attorney-client privilege, so it would be protected works, if you will. But, one of them at least was released to the public. So, it was discussed several times -

CHAIR WEISSER: Well, okay. I'm, on behalf of the Committee, directing you to write a letter -

MR. CARLISLE: I will do that.

CHAIR WEISSER: - a formal letter requesting these opinions. I also would hope that you're having conversations with both the ARB and the BAR regarding their current thinking associated with this issue.

MR. CARLISLE: I have, yes.

CHAIR WEISSER: And, in fact, what I'd like you to do is to write a letter to both of them on behalf of the Committee asking their view on this issue once again.

MR. CARLISLE: Okay.

CHAIR WEISSER: If possible, it would be desirable to have both agencies and the IMRC in accord. If not, it's important that decision makers, and Assembly Woman Horton being one, be aware that there is a spectrum of views associated with these issues.

MR. CARLISLE: Okay.

CHAIR WEISSER: So, what you might want to consider, Rocky, is reiterating these several questions that you've identified in the Horton letter and sending those to both BAR and ARB and asking them for what are their views on this.

MR. CARLISLE: Okay. Second question was there was some discrepancy that was alluded to from Cynthia Marvin's presentation she gave back in 2005 and she had stated essentially that BAR was currently directing 2.6 million vehicles and SIP indicated you had to test two million vehicles, and so they were on target. But, what that didn't include at that time or in her conversation, was the Bay Area, because the Bay Area is not - did not have an ozone issue. That was really brought in by law and was not included in the SIP at that time. So, there were two separate issues. The Bay Area has some nine million

vehicles and so that increased the total direction to 3.4 million, which was referred to in the Horton letter.

CHAIR WEISSER: So, the 2.6 millions was increased to 3.4 million?

MR. CARLISLE: Correct.

CHAIR WEISSER: Because of the overall addition of the Bay Area, which included about nine million vehicles?

MR. CARLISLE: Yes.

CHAIR WEISSER: And then applying that 36 percent rate, that's how you got that number or is that -

MR. CARLISLE: Yes.

CHAIR WEISSER: Okay. Mr. DeCota?

MEMBER DECOTA: All right, I think this is a perfect example of why we need as current of information as possible in addressing these questions. We cannot go off of five-year-old data in order to take and try to address this. I commend you in your efforts in what you're trying to accomplish here and I inspire you to keep going, but it's got to be current as possible information, so it's meaningful to the Committee and it's meaningful to whatever recommendations that we want to make.

MR. CARLISLE: I fully concur. The thing I was trying to do was respond in the narrow scope of the question so that we didn't expand this. You know, we could be writing a book on these topics, as you well know. And so, I was trying to

remain in a very narrow scope and then if there were additional questions, which based on the responses there certainly would be, but again, to not infer any judgment whether good or bad and just give her the response to the questions. Because a lot of this, I agree with you. For example, on the third question, what are the emissions credits. Well, that's based on a July 2000 report and it comes up with 3.3 tons per day. That's the benefit of test-only. But a simple thing like fuel evap gets 14 tons per day.

MEMBER DECOTA: Right.

MR. CARLISLE: But if you look at this, again, this is based on the 2000 report and not the 2004 or subsequent reports, and even the 2004 report did not identify an emission benefit. It only said that a certain percentage of these test-only stations did a better test than the test-and-repair.

MEMBER DECOTA: Understood.

MR. CARLISLE: But it never quantified the emissions benefits, so -

CHAIR WEISSER: Mr. Pearman?

MEMBER PEARMAN: Just to clarify, there was some confusion before, but she did not send this letter or a letter like this to BAR and ARB; just to us, correct?

MR. CARLISLE: No, she did not.

CHAIR WEISSER: While that may be so, I still think this

provides an opportunity for the agencies and us to at least understand each other's perceptive on the issue.

MR. CARLISLE: I would agree with you.

CHAIR WEISSER: I'd like you to take advantage of that. May I - there's - in this particular section, we're going to have to work on some of the wording, Rocky, because I think it's somewhat confusing. Dennis, is it this particular section that you are concerned about in terms of the timeliness of the data?

MEMBER DECOTA: Well, yes. Not only that, but I'm talking about each one of the information gathering data has to be as current as possible. Because the program has evolved tremendously since the inception of '98 and the numbers and the amount of test regimens and where they're going and that type thing. And we need this because we really need to get evap into the program. And to get evap into the program, we can no longer go to the industry and expect them to take and participate in a program that does not have enough solace and forethought to become a program that they can participate in economically. And they have to be able to do that. And I think this goes a long way to other programs that we're trying to take and work through. And I think it's key that we get in here and look at what's happening now in the program. It's changed. Industry, the automotive repair industry, I think the test-only industry to some

degree, is burdened by the lack of ability of the agencies to react to current issues because they are driven off of old data that is not relevant in today's program. And we need to take and step that up. We need to put the accelerator down and get that information and those numbers up so that everyone can see what they are and we can make rational decisions to move the program forward because evap, I believe, and particulate matter is where we're going to go in the next 10 years. And where we really have to zero in and can make a huge amount of difference as an industry representative.

CHAIR WEISSER: It's hard for me to see you guys down in the south 40, so if you want to make a comment or ask a question, rather than just putting up your microphone like normal people do, wave. Any other comments? Did you have some more, Bob?

MEMBER PEARMAN: Well, just - what you've italicized are, she maybe didn't write exactly these eight questions, but you identified these as things that needed specific responses, right?

MR. CARLISLE: Correct.

MEMBER PEARMAN: Okay, so I just wanted to make clear that to some extent, there's two different issues here. One is responding to a letter and it is to some extent the things that Mr. DeCota is raising kind of go beyond that, so I just

think we need to be clear about what we're doing now and some of those things might be a different effort that's not directed to responding to her letter.

MEMBER DECOTA: I agree with you. And what I'm trying to say is that if we do have fresh data in order to answer these questions, it is going to dovetail into helping us with other questions. That's my point.

MEMBER PEARMAN: Agreed.

CHAIR WEISSER: There's a use a phrase in question number three, emission reduction credits. Is that from the letter, Rocky? I don't remember.

MR. CARLISLE: Yes.

CHAIR WEISSER: Okay. These really aren't emission reduction credits. Those have a legal meaning and statute. These are emission reductions that are credited in the SIP.

MR. CARLISLE: Right. That's a response - I did get that response directly from ARB.

CHAIR WEISSER: Yes, we -

MR. CARLISLE: So -

CHAIR WEISSER: - want to do some wording here for clarity, wording changes. On question number five, and the reason folks in the audience don't have this is it's a draft, it's a work in progress, and so we're only allowed to talk about it as a group in public sessions. We're going to take advantage of this time. You indicate at the end that BAR

directs - it appears that BAR directs 34 percent of the vehicles to test-only based upon the high emitter profile while the remaining two percent are directed at random.

MR. CARLISLE: Correct.

CHAIR WEISSER: That' because of the statute that prohibited them from requiring or using as a program element a higher level of referral from failing cars - cars that had failed previous tests. Is that an accurate reading of that?

MR. CARLISLE: No, by law there are two separate statutes that cover directed vehicles. One is that addresses at random, the other is those directed as a result of being possible high emitters. Way back when this started, back in '97, there is some discussion as to whether it really should be 36 percent and two or if the two is inclusive, so that's why they came up with a separation.

CHAIR WEISSER: I'm looking at - on Page 2, the very end, you state, it should be noted that the annual test for two to five years for vehicles previously identified as high emitters was eliminated by legislation.

MR. CARLISLE: I should have changed that. That's a typo. They should be gross polluters because the gross polluter law was very specific back then. It said there were three elements, one a gross polluting vehicle had to go to a test-only station, two there is no cost limit for repairs, and three, they were subject to the annual test for two to five years.

Because of the overload with the referee system back in ’96 and ’97, the legislature rescinded two of those, being the cost limit and the two to five year annual test.

CHAIR WEISSER: And, so right now, the only statutory direction that you’re aware of is the 36 percent figure, the two percent figure, and then you’re imputing that that leaves 34 percent that are based upon the high emitter profile; is that correct?

MR. CARLISLE: Correct.

CHAIR WEISSER: Does the Department agree - or is the Department, I should say BAR, utilizing any other criteria? And I’m not asking you necessarily to answer that now, but I am asking you to confer with the Bureau to make sure, in fact, that that is an accurate reflection of what they’re doing.

MR. CARLISLE: I’ll do that.

CHAIR WEISSER: So, what this indicates to me is that an individual vehicle’s failure in a previous Smog Check would not influence whether or not that vehicle would be directed to test-only in the future. It would be that engine group that might, based upon the high emitter profile, result in a vehicle being directed.

MR. CARLISLE: Previous -

CHAIR WEISSER: Is that an accurate assessment?

MR. CARLISLE: No. Previous Smog Check history is a data point

in the high emitter profile.

CHAIR WEISSER: So then, it is a data point.

MR. CARLISLE: Correct.

CHAIR WEISSER: Vehicle by vehicle.

MR. CARLISLE: Yes.

CHAIR WEISSER: Okay. I was not aware of that. And, Rocky, in question number six, you indicate that no definition currently exists for the term high emitter. You mean to statutory definition?

MR. CARLISLE: Correct. And as far as I know, there's no departmental definition either.

CHAIR WEISSER: Is there a definition for gross polluting vehicle?

MR. CARLISLE: No.

MEMBER NICKEY: Isn't it just -

MR. CARLISLE: I believe that they did have one definition of two to three times the cut points.

MEMBER NICKEY: Yes, more than twice the limit that -

MR. CARLISLE: Right, but it was never a -

CHAIR WEISSER: Would you identify yourself, Roger? Identify yourself.

MEMBER NICKEY: I'm sorry, Roger Nickey. I just thought I had read someplace it was more than twice the limit, which left room to say it could be maybe three times, too, but -

MR. CARLISLE: Yes, it was kind of a loose, it was never a

formalized definition is what I'm getting at.

MEMBER DECOTA: What it makes a vehicle a gross polluter?

Dennis DeCota.

MR. CARLISLE: I'd have to go look. I know it's covering 39032.5 of the Health and Safety Code, which I don't happen to have with me at this point in time, but there is a definition they use there, but again, I think it just refers to gross polluting vehicles and it doesn't really give a definition. I'll have to look it up.

CHAIR WEISSER: Question number eight that you extrapolated from the letter asks what are the incremental benefits in terms of emission reductions that are being achieved by sending non-high emitter vehicles to test-only stations versus Gold Shield stations. You answer this question in the - by making reference to emission credits. And what I assume you mean by that is the tons of emission that you get credit for in the SIP; is that correct?

MR. CARLISLE: Correct.

CHAIR WEISSER: But the question itself doesn't really necessarily reflect to the academic exercise of the SIP or the demonstration of attainment. It may actually talk about emission reductions.

MR. CARLISLE: I'm sorry. I did mean emission reductions in this, the extra emission reductions. I mean, my concern with this one, if - you can look at it two ways. In one

respect it really is a cop-out in saying we don't know what the current emissions benefits are. It would be a better term for that and that's going to be a while before we know the answer to that question. We know what they were in 2000, that was the 3.3 tons per day. But what are they in 2006, I don't know that anybody has any idea at this point. I know that's one of the issues with the Sierra Research document, you know, trying to quantify the benefits to the test-only direction, but I don't know that anybody has a firm answer on the current benefits.

CHAIR WEISSER: Mr. Pearman?

MEMBER LAMARE: No, it's me.

CHAIR WEISSER: I'm sorry, Ms. Lamare.

MEMBER LAMARE: Jude Lamare. I think where this letter breaks down for me is from question five on because I personally have no knowledge of the high emitter profile and I don't know that the vehicles sent to test-only are identified as high emitters. In fact, I'm confused because if only 12 or 15 percent of the vehicles are failing Smog Check, then why would we think 34 percent are likely to fail. And I though that the high emitter profile purpose was to identify vehicles likely to fail and get them to go to test-only and that's where the emission reductions were coming from. So, I'm really uncomfortable with Page 3 because - although, I think some of my earlier issues were resolved. It still

doesn’t hang together for me that what she’s asking about is high emitters, but we have no idea what she means by that or what the Bureau means by it or what the HEP means by it.

MR. CARLISLE: I think with regard to the high emitter profile, one of the misunderstandings is the way it works. It simply ranks vehicles as they’re - it assigns what they call F-probs or probabilities of failure. And so it ranks every vehicle in the fleet from zero probability up to 100 percent. So, you know, you pick your poison and if you start out and say I want the most likely to fail vehicles, you’d have to stay in the upper, say 15 to 20 percent of that, the F-prob. But, as you increase the number of vehicles, obviously you have to move down. The F-probs are going to gradually decrease as you increase the number you select from that mechanism. Secondly, the vehicles are sorted by county, so you may have some counties that have relatively clean fleets that we still select the 34 percent off the high emitter profile, but they may or may not be all that dirty. Take Orange County, for example. You know, that’s a fairly high-income county. I haven’t looked at the fleet to see what proportion would be older vehicles, but there are some counties that would tend to have newer vehicles as opposed to older, and model year is a - is weighted very heavily in the HEP. The fact of the matter is, you could probably take any 10 year and older vehicle

and that would be a HEP vehicle.

MEMBER WILLIAMS: Could I say something?

CHAIR WEISSER: Please, Jeffrey.

MEMBER WILLIAMS: Jeffrey Williams. To add to further confusion, the HEP is simply about whether a vehicle passes or fails. It doesn't use the information about the actual emissions that much. So, it's reduced all that information to a zero-one outcome, and so I think what we instinctively mean by a high emitter are the extreme observations, not just whether it failed by a little bit. So there's confusion created by the use of the high emitter profile. It would be better called the likely to fail profile.

CHAIR WEISSER: Well stated, Jeffrey. Have you had any conversations with Assembly Member Horton's staff?

MR. CARLISLE: I have not. No, I did write her a letter - Stephanie Kimball, that's her legislative director, and I wanted to let her know that we were in fact working on a response and I also identified the questions as we perceived them - or at least I perceived them - from her letter.

CHAIR WEISSER: And did you get a response to -

MR. CARLISLE: Not yet, no.

MEMBER DECOTA: It only went out yesterday.

CHAIR WEISSER: The letter -

MEMBER DECOTA: That's when it's dated, the 28th.

CHAIR WEISSER: No, this is a draft.

MEMBER DECOTA: Oh, I see.

CHAIR WEISSER: This is - yes. I think it might be a good idea for you to call and make sure you have a full understanding of what the intentions were behind this letter. And what might be a good idea, because I hate to take as long as we're taking on getting a response back, is for you to develop a very narrowly tailored interim reply responding to - a draft - responding to those questions which are easy to respond to where there won't be much controversy and indicate the remaining questions yet to be answered and indicate why it's taking us some time. Is there information that you are awaiting from either BAR or ARB to answer any of these questions, Rocky?

MR. CARLISLE: No, to be honest with you, I did want to submit this to the Committee and get a response from the Committee in general and maybe even assign a subcommittee that we could work on this in detail and move it forward maybe a little bit faster.

CHAIR WEISSER: What does the Committee think in terms of establishing a subcommittee? I think it might be a good idea. And who would like to work on that subcommittee outside of Dennis? Okay, Jude has her hand up and me. So you've got a subcommittee. And, in fact, if a member of the staff would like to meet with one or both members of the subcommittee, staff meaning the staff of Assemblywoman

Horton's, please let us know and we'll try to accommodate that. I'd like to get something back to her within the next week or two.

MR. CARLISLE: I agree.

CHAIR WEISSER: And I want to praise you, Rocky, for taking a shot at this. We knew when we got the letter that it was full of little land mines and a difficult question, particularly coming at the time when there's consideration being weighed by many regarding the differences in program performance between test-only, test-and-repair, and Gold Shield. So the issue is laden with potential controversy and import. We want to make sure we do as good a job as we can.

MR. CARLISLE: Okay.

CHAIR WEISSER: I'm sorry, Mr. Nickey?

MEMBER NICKEY: Roger Nickey. I just have a comment and a question. One, I keep seeing this figure of 3,440,000 vehicles referred to test-only, but if you look at the executive report, only 2,800,000 actually got first test due to test-only. My question would be what is the difference between 344 and 2802, it's 600,000 vehicles that were supposedly directed, but never tested.

CHAIR WEISSER: And I think in response, the draft response to question number two, Rocky tries to identify the causes of that attrition and he references vehicles transferred from

out of state being scrapped, placed in non-operational status, those sorts of things.

MEMBER NICKEY: The second part - I'm just confused because I'm rather new and I just want to understand procedure, but when an Assembly Member has a question of say Air Resources Board or BAR, is it common that they refer their question through us or do they go directly?

CHAIR WEISSER: Assembly Members and senators can ask questions of whoever they like. This one, I think is unusual. I would have expected this letter, this type of inquiry to go to the agencies. And in fact, when you chat with their staff, I'd be curious as to finding out why they didn't ask the agencies directly, since we end up going to the agencies for the data anyhow. I think that's a decent question.

MEMBER NICKEY: It just makes extra work for one thing.

CHAIR WEISSER: Maybe she knows that we have this activist committee that likes to try to get things done and maybe that's why she sent to us.

MEMBER NICKEY: May it adds a filter that isn't needed.

CHAIR WEISSER: I'm sorry, could you -

MEMBER NICKEY: Maybe it adds a filter that may or may not be needed.

CHAIR WEISSER: Right. Well, look at the Committee's charge. We're supposed to independently review the program. If - there must be a perception that the caretakers of the

program, in terms of the agencies, may have certain interests that would preclude them from being able to exercise completely independent judgment, otherwise the legislature would not have established an independent review committee such as ourselves. Mr. DeCota, and then let's get out of this question -

MEMBER WILLIAMS: Jeffrey Williams.

CHAIR WEISSER: - before I dig a deeper hole. I'm sorry, Mr. Williams.

MEMBER WILLIAMS: Here's another issue, the pretests that are done at test-and-repair before the vehicle appears at a test-only. I'm thinking of Roger Nickey's issue, counting what's the first test in a cycle and where it was done seems to be very tricky, too.

MR. CARLISLE: That is very tricky, yes.

MEMBER NICKEY: Pretests are counted separately, they're not first tests.

MR. CARLISLE: No, they're first tests.

MEMBER NICKEY: They're first tests.

MR. CARLISLE: By definition.

CHAIR WEISSER: You need to identify yourself when you're speaking, Roger.

MR. CARLISLE: Yes, Rocky Carlisle. Essentially the pretest, the official test, both of those are identified as an official test. When they define exactly when that vehicle

got pre-tested or first tested in the last 180 days and if you look at some of the reports that BAR can generate, you can actually identify directed vehicles that were first tested at test-and-repair because that is legitimate. They just don't get a cert, they still have to go to test-only. But if you have a likely failing vehicle, it would seem reasonable to take it to test-and-repair first to see if it is in fact going to fail, get it repaired, and then take it test-only for the certification test.

CHAIR WEISSER: Mr. DeCota?

MEMBER DECOTA: Just to address Roger, I know that industry representatives for at least two years have been asking agencies similar questions to these without a formal response from either agency, so maybe that was part of the charge that was taken in order to get them answered, just for your information.

CHAIR WEISSER: Good point. Aren't you glad you brought this up, Rocky?

MR. CARLISLE: Absolutely. Are we done?

CHAIR WEISSER: For the while. Any comments from this mysterious discussion since you don't have a copy of the draft from members of the public? Please, Bud, come on up.

MR. RICE: Good Morning. Bud Rice, Quality Tune-Up Shops. Just a quick request. I understand the draft of the letter is a work product, but is the incoming letter also available to

the public? Because I've never seen the incoming letter.

MR. CARLISLE: I can make that -

CHAIR WEISSER: The incoming letter should be made available to the public. In fact, you ought to post it on the website, Rocky.

MR. CARLISLE: I'll do that.

CHAIR WEISSER: Okay, we'll move left to right, so we'll go to Mr. Ward.

MR. WARD: Not to make this even more complex than it already is, but Dr. Williams will appreciate this. Randy Ward, representing the California Emissions Testing Industries Association. The data that is currently produced by MCI that the BAR is in process of putting a new contractor on board, but as of today, we're still using MCI. That data, the conversion, what they do is they take the test and they try to take out all tests that have occurred on the vehicle within 180 days so that they show one test for that vehicle so that you have a clean test record. The problem is their formula for doing that is proprietary. While they'll explain the theory to the Bureau so the Bureau can try to replicate it, they will not give the actual formula. And the bottom line is, there is about a 10 percent difference in vehicle tests between what the BAR calculates and what MCI calculates. And it gets worse from there. Now, if you want me to go on, I can.

CHAIR WEISSER: Mr. Ward, I don't think I want you to go on here, but I think this is startling information. Is it possible for you to write us a note or a letter to delineate these sorts of things?

MR. WARD: Certainly.

CHAIR WEISSER: I mean this seems -

MR. WARD: If you'll promise to read it, Mr. Chair.

CHAIR WEISSER: Well, if it's less than your autobiography, I will. You're telling me that this data set is - that the agencies do not have a way to actually verify their expectations versus what the reporting from the contractor shows?

MR. WARD: What I'm saying is when they try to replicate what the contractor does, they're off by a factor of a percentage. Also, I think it's important to note, we talk about the 36 percent that are HEP vehicles that are directed to test-only, and you saw the discrepancy that was raised with approximately 600,000 vehicles. That has been an historical no-show rate. The DMV has a no-show rate on registration renewals and it varies anywhere between three and six percent, but we found out where the lion's share of that percent is. It's in the vehicles that were classified as HEP. So, when this program first started, when they were directing 15 percent, there was over a 30 percent no-show rate. For months and months, they got nine percent, ten

percent. It wasn't until they went to 22 percent that they finally started broaching 15 percent. So at 36 percent, they're probably getting 31 or 32 percent.

CHAIR WEISSER: Well, I'm not sure about that last statement, Mr. Ward, because - well, I'd like to run the numbers. But if they're over-directing, I'm assuming that over-direction is intended to result in a 34 percent plus two percent random going to test-only as they committed to in the SIP.

MR. WARD: They direct that many, they committed to directing that many vehicles. That many vehicles do not show up.

CHAIR WEISSER: But the data, at least as I'm reading this draft report, is that they over-direct in order to hit that target. Do they still miss that target, Rocky?

MR. CARLISLE: No, they only direct 36 percent. They certainly get the two million that the SIP agrees to, but -

CHAIR WEISSER: Does the SIP agree to two million or to a percentage?

MR. CARLISLE: As I recall, it agreed to a number of vehicles. Originally, it said 15 percent or 750,000 vehicles and then it said it may have to be increased to 36 percent. But, that -

CHAIR WEISSER: So, it's a percentage, not the number.

MR. CARLISLE: It's a percentage of - to those areas that are in violation of the ozone standard. So, that's why they separate the Bay Area.

CHAIR WEISSER: This is so clear and clean.
MR. CARLISLE: Yes, I know.
CHAIR WEISSER: I think it's just a marvel of obfuscation and governance tying itself up. I want to put a bow around this conversation for this time.
MR. CARLISLE: Okay.
CHAIR WEISSER: Thank you, Mr. Ward. Thank you, Rocky. But, we have some work ahead of us, obviously.
MR. CARLISLE: Yes, we do.
CHAIR WEISSER: I'd be interested, if possible, Rocky, if you could arrange a meeting with a staffer, of sitting in that meeting with the staffer.
MR. CARLISLE: Okay.
CHAIR WEISSER: Mr. Peters?
FEMALE: If you could just stand up here.
CHAIR WEISSER: Yes, it's nice for me to be able to see that when I'm looking at whoever is speaking.
FEMALE: I could put one over here, too.
CHAIR WEISSER: No.
FEMALE: Is that good enough?
CHAIR WEISSER: It's fine over there.
MEMBER DECOTA: Are they going to trip over it?
CHAIR WEISSER: Oh, are they going to fall? Is it an awkward situation?
FEMALE: It should be okay.

CHAIR WEISSER: All right.

MR. PETERS: Hello, Mr. Chairman and Committee. I'm Charlie Peters, Clean Air Performance Professionals. Interesting conversation and dialogue. I was out for a bit there getting a cup of coffee and I didn't understand whether the 1995 Highway Bill changes and the mandate for the (unclear) concerning issues of test-only and reductions and so on as part of this consideration. I am under the impression that the FED requires no (unclear) whatsoever. It just requires California to evaluate what they do. So, like Dennis said earlier on, that the capacity tests a certain amount from the start, certainly was. What does this really mean, but then the 1995 Highway Bill came in and specifically empowered California to panoply whatever they wanted. So we continuously get this situation. Well, what the SIP said is I think California can do what they want with that SIP. The issue should be about reductions and with appropriate oversight, maybe this whole discussion about how much is going to test-only clearly is a non-starter and needs further basic consideration as to what we're required to do and what is best for California as far as convenience and program effectiveness and so on. So, my question, Mr. Chairman, is about whether or not the 1995 Highway Bill requirements are incorporated in this discussion and whether or not we really need any mandated test-only at all.

CHAIR WEISSER: Thank you Mr. Peters. Mr. Saito?

MR. SAITO: Dean Saito with the South Coast Air Quality Management District. I just wanted to clarify, I don't believe that the 36 percent is statutory. That was a SIP commitment made by the Air Resources Board back in 2000 when there was a short-fall on the Smog Check emission reduction credit and it resulted in the inability for two regions, South Coast and Sacramento, unable to make transportation to form any findings. And ARB submitted a SIP commitment that committed to a 36 percent test-only direction. At that time, the credit, there was an M-fact model specific credits given to those vehicles tested by test-only versus test-and-repair. I think that evaluation has changed since 2000 based on random road-side tests, which basically shows the tests between test-and-repair and test-only is about the same. So, I think the valid question today is - in today's current M-fact model, is there separate credits being given to those vehicles being tested at test-and-repair versus test-only. And that is the question that needs to be asked.

CHAIR WEISSER: Rocky, could you ask that question -

MR. CARLISLE: I will.

CHAIR WEISSER: - of ARB? Thank you. I agree completely, Dean. I think that's part of the real question. Any further comments from the public? Seeing none, we'll move on. Rocky, please continue.

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MR. CARLISLE: Thank you. Okay, on the legislation end, still under Item 2 under legislation, you have a printout of the current chart for bills. AB184, for example, died pursuant to Article IV, Section 10(c) of the Constitution, which essentially says that the bill has to get out of the house of origin by January 1st of the second year of that session. AB226 is still in Senate appropriations. I was not able to get any update from staff. I did not get a call back on that one. AB386, I think that was the one that's going to move Smog Check to ARB. I think everybody's aware that that's somewhat dormant. It hasn't been killed yet, but I understand it's short-lived. AB578 essentially is what we've been discussing for the last portion of an hour, I suspect, and that's still in the Senate Committee on transportation and housing and I understand they're still meeting to search for a compromise. AB898, that was going to change the technician requirement for test-only technicians. That's also died pursuant to Article IV, Section 10(c). A new bill has cropped up by Assembly Woman Lieber, AB1870, and I have a fact sheet in this same section and that would have required that the Bureau of Automotive Repair incorporate a smoke test as a component of a Smog Check by July 1st of 2007. It's loosely patterned after the Nevada test, which essentially looks for visible smoke out

of the tailpipe. There was a recent modification or amendment to it, if you will, that required the smoke to be present for 10 seconds.

CHAIR WEISSER: And excludes steam.

MR. CARLISLE: It excludes steam, yes. And truth of the matter is, any black smoke will be caught by the emissions analyzer because that is fuel, whereas blue smoke would not be because that's a derivative of the oil burning. I've also in this same section, got a draft letter for your review supporting that bill since we did in fact put it in the 2004 report. And with the Committee's consent, I will forward that to the Assembly Woman's office.

CHAIR WEISSER: Okay, let's have a discussion on that specific item and we'll start with Mr. DeCota.

MEMBER DECOTA: As an industry representative, the industry has some concern with the bill. And the basic concern is that it needs to have language in it that basically holds industry harmless for cost, cost of increased software upgrades to their TAS machines. Industry also needs to be heard on an issue of it needs to hold industry harmless for enforcement because this is going to be a subjective test. It is basically gonna be very difficult to develop a procedure in doing this that is going to be concrete in every way. And we also, industry and consumers, need to deal with new failures. It needs to have some teeth in it

so that if we do find a problem that we have funding and the ability to help those consumers that may not be financially whole to make the repair. We can't have just a simple waiver issue. We want to fix the car, if we're going to get into this, if the car is fixable or worth it from a value standpoint. Those are issues I hope that the Committee would look at in its support of 1870 that industry has concern with. Thank you.

CHAIR WEISSER: Thank you. My understanding is that there's nothing in the language of the bill that would preclude eligible consumers from assessing - accessing I should say, the Consumer Assistance Program funding for assistance in making repairs. Is that correct, Rocky?

MR. CARLISLE: That's correct. And I might also had that about a week ago we had a meeting at the Capitol with regard to this bill and there was a number of issues brought up. One was the software that I brought up because of the expense to the industry.

CHAIR WEISSER: I thought this was a visual check-in, in fact there is no software update.

MR. CARLISLE: Well, it is a visual inspection, but the problem is, the technician has to have a mechanism to enter that into the inspection - emission inspection system and be recorded on a vehicle information database.

CHAIR WEISSER: Oh.

MR. CARLISLE: So that requires an update. However, there's also a rather large update that's coming up anyway, so that would actually mitigate the direct expense to this bill because the OBD II testing requires the communications protocol, which is just a different communications protocol for the analyzer, if you will.

MEMBER DECOTA: I hope, though, that we would go that one step and make them aware that we're aware of an upgrade coming up that we don't need to pay $2,500 for additional software for this program, okay. That it can be included and that's the reason for the concern. At a very nominal fee, I don't think industry would fight a very nominal fee. I think industry would have a great deal of problem with a large software upgrade expense. And to deal with the cost issue and your question, Mr. Chairman, Dennis DeCota, I think you're going to find the average repair for this type of failure to be far more than what you're going to get in our program. So, we need to look at funding this type of repair if the value of the vehicle supports it. We need to really do a good job here. And maybe it's in the way of a grant or a loan or whatever we try to do to the consumer to help them bring their car into compliance and to fix it. By simply the program that exists today for this type of failure, I think you're going to find it very inadequate as far as a repair.

MR. CARLISLE: If I may, Mr. Chairman, we did have a discussion on this issue and I've since spoken with Dan Shawn (phonetic) as well. The issue of the cost-repair limit, that certainly should be raised at a minimum to $700 to comply with the consumer price index, but truth of the matter is, these were probably higher than that and they will also impact more so than not the lower income people. Consequently, there should be some provision in the Consumer Assistance Program that accommodates these kinds of repairs. The issue was when I was discussing it with Sally Lieber's staff was that at some point, you put so much in it, it becomes a poison pill and it kills the bill. So, maybe it would be better left for a follow-up, if you will, to this bill, to maybe eliminating the requirement or the qualification for test-only directed vehicles to CAP and say CAP is really low income which is what it was initially supposed to be. It's not supposed to be somebody with $100,000 income to allow them to repair their vehicle under the Consumer Assistance Program. But since you have test-only directed vehicles going to CAP because they are eligible -

CHAIR WEISSER: Some of the money gets sucked off to help people who really can afford to fix the car or should be scrapping the car.

MR. CARLISLE: You bet.

CHAIR WEISSER: Ms. Lamare?

MEMBER LAMARE: Just a comment about the impact of the bill and that when we approved our recommendation to include smoke testing, we recognized that the State had estimated just 200,000 cars statewide that would qualify as smoking vehicles, one half of those falling into Smog Check each year, assuming that they're registered and getting the Smog Check notice. So, the big hit will be in the first two years that this goes into effect and maybe there is a budgeting issue there for CAP assistance, but I also think that these vehicles are good candidates for scrappage and that by pulling them in to the Smog check program on the basis of smoke, they enter into these programs, including Consumer Assistance Program and the option of California scrapping the vehicle for $1,000, which is maybe more than it's worth. So, I'm not convinced that all these vehicles have to be fixed and that we somehow have to find the money to fix all these vehicles or that - and I agree with the executive director, that if changes were made in the CAP program to remove the test-only eligibility for CAP, that would make available more money.

CHAIR WEISSER: Please John.

MEMBER HISSERICH: John Hisserich. I didn't hear a follow-up to Mr. DeCota's question about the issue of the subjectivity, if you will, or the visual aspect of the test and are there

- presumably in your conversations, there's some standards and guidelines being developed, maybe not.

MR. CARLISLE: Essentially, if you look at the Smog Check inspection procedure today, there are two components that are currently subjective. The visual inspection is one of them. If you look at a hose, for example, you can say it's defective or it's in some state of disrepair. And what I may say is defective, somebody else may look and say no, it looks fine to me. So, there's subjective components to the test right now. In addition, this test has been performed by Nevada for over 30 years and it continues to be done on a daily basis.

CHAIR WEISSER: And everyone knows that all citizens of Nevada pack rifles in their trucks and cars and have we heard of any incidents of mass mayhem and murder over this?

MR. CARLISLE: No, they don't seem to be -

CHAIR WEISSER: I'm just being facetious. I want to just get on the -

MEMBER HISSERICH: Well, let me just follow-up, if I may.

CHAIR WEISSER: Sure.

MEMBER HISSERICH: Just - you say it's been conducted for years. Is there a set of guidelines about what constitutes a threshold?

MR. CARLISLE: Yes, they just say any stream of smoke, other than steam is cause for failure. They don't have the ten

second rule like it's been implied in this bill.

CHAIR WEISSER: You see it, it fails. As long as it's not steam. How do you differentiate steam and smoke?

MR. CARLISLE: Steam will evaporate very quickly.

CHAIR WEISSER: And smoke just kind of hangs in the air?

MR. CARLISLE: Exactly.

MEMBER HISSERICH: If I may, does that include - when you first turn the car over, sometimes there's a puff of smoke. Does that constitute a violation or it when the car is sitting there idling and you see smoke for some period of time.

MALE: Good question.

MR. CARLISLE: No, they rev it up. They just rev it up and if there's any smoke at all -

MEMBER HISSERICH: But leave it some period of time.

MR. CARLISLE: Correct.

CHAIR WEISSER: And two, you have what's being proposed here is the ten second rule. Let the car start running for ten seconds and then if there's smoke. In the interest of disclosure, my organization, the California Council for Environmental and Economic Balance will be becoming a cosponsor of this legislation.

MEMBER LAMARE: Gideon has a question.

CHAIR WEISSER: Gideon?

MEMBER KRACOV: Dennis, the concern about being held harmless is what, from BAR enforcement or consumer complaints?

MEMBER DECOTA: Exactly. Exactly. You're exactly right. You can have a set of what's called alkyds. It's a very effective cost repair. It can be done - the car can be relatively new, it's caused by not changing the oil, okay. They get hard or it leaks down on top of the cylinders, vehicle starts, you have smoke. It cleans out, it burns that off. Don't we want to trap those emissions? Don't we want to fix those emissions? I like the concept as an industry person of what we're trying to accomplish here. I just want to make sure that we don't step in it again. It's got to be presented in a manner that works.

CHAIR WEISSER: Well, I'd like to enlist your help in coming up with a way to make it work.

MEMBER DECOTA: Okay.

CHAIR WEISSER: And right now, we have a program that in some ways defies rationality. We have a program to reduce emissions where if your car is smoking, you can still pass. Sorry, folks. On the face of it, that's wrong. We need to change the program. It's not credible to every consumer to see cars running up and down the roads smoking. We've got to get those cars off the road. We've got to get them fixed or we've got to get them scrapped. This is in my opinion, a step toward that end. I would encourage the Committee to support the sending of a letter and indicate that the Committee is interested in working with the industry and the

staff of the author to address outstanding questions associated with the implementation of the measure. So, I'd like you to add that kind of phrasing to the letter, Rocky, and with that, what I'd like to do before we open it up to public comment is propose that we move to approve the letter and send the letter.

MEMBER LAMARE: I second that.

MEMBER KRACOV: I'll second that.

CHAIR WEISSER: We have a second from -

MEMBER KRACOV: Yes, and we can discuss it.

CHAIR WEISSER: - Gideon and now we'll have a discussion on the letter. Mr. Nickey?

MEMBER NICKEY: Roger Nickey. Speaking as someone who sees a couple hundred tailpipes a week, I just don't know how this is going to work. And Rocky's right. It's very subjective. One man's smoke is another man's steam and you're going to get three different guys looking at the same tailpipe coming up with three different conclusions unless there's someway to standardize this thing. And you are right, we have many vehicles come through, visible smoke during the test, they pass the test just fine. Also, smoke has a lot to do with your facility. I had a facility for a while that you drove in and it had a dead end where you did the testing. You're a lot more conscious of smoke in a situation like that than you are in a facility like I have now where the wind blows

straight through like a wind tunnel. Yes, there may be smoke and you don't see it because it blows away. So, I mean, how are you going to deal with all this stuff to make it come up?

CHAIR WEISSER: We're going to - is yours directly in response to what he just said, Bruce? Please go on, then we'll pop over.

MR. HISSERICH: I guess I have a bit more faith in the technicians in California because if the technicians in Nevada can do it, the technicians here can do it. We have very, very excellent training programs here. I would stack the technicians up in California against anybody in the world. So, if the techs in Nevada can make the subjective decision, they can here.

CHAIR WEISSER: Thank you. Tyrone?

MEMBER BUCKLEY: Thank you. This is Tyrone Buckley. I would support doing something like this as long as we can have some sort of language that addresses the concerns that we've talked about today about low-income folks. I know that the Assembly Member's probably concerned about opening up a can of worms, but I think that we should put pretty strong language in there about the concerns that we have about low income folks and also, maybe we can look at the language that we had in the letter supporting the bill last year concerning the 30-year rolling exemption. I think we

addressed the low income issues with the support letter that we had for that bill, I would imagine. There's language like that in there, maybe we can just take it from there.

CHAIR WEISSER: Well, I'm open to the notion of adding some wording in the letter regarding the Consumer Assistance Program and repeating our suggestion that at some point in time we had asked the legislature or the Administration to consider removing the automatic eligibility of directed vehicles for consumer assistance. We could reiterate that. We're already on the record in that regard.

MEMBER BUCKLEY: Even something that said something even more directed like, as the legislature considers expanding the folks that end up in the Smog Check program, we should make sure that the funds we have that help the people most needy are well directed.

CHAIR WEISSER: Okay. Dennis?

MEMBER DECOTA: It would be interesting, I absolutely agree with you. I mean, a mechanic usually that's trained properly can detect a problem. The problem is going to be 99 percent of the time, unless I'm really out in left field here, Rocky, identifiable through the emission test itself, i.e., a hydrocarbon, increased CO or NOx or some type of indicator that will confirm the smoke. Now you've got your high emitter profile and you've got a standard to measure against.

CHAIR WEISSER: But, as I understand it, the existing equipment does not necessarily test for smoke.

MR. CARLISLE: It will see black smoke because that is gasoline. It's hydrocarbon. The oil smoke is a different hydrocarbon chain, if you will, so it's not calibrated to actually read that.

MEMBER DECOTA: It doesn't, okay.

CHAIR WEISSER: That's the -

MEMBER DECOTA: Because, I mean it would be very simple to put a standard on that and say, okay, I have smoke, I also have a car with X amount of hydrocarbon failure. You know, we have a definite confirmation then in that it's not subjective any longer. That's what I was trying to get to.

CHAIR WEISSER: Right, and may be in our discussion of the 2010 program we'll have suggested that be built in.

MEMBER DECOTA: No, no. I understand.

CHAIR WEISSER: To me, it's the height of absurdity that we have this test that doesn't test for smoking cars.

MEMBER DECOTA: Oh, I agree.

CHAIR WEISSER: I don't get it. And I'd love members of the Committee to go out to the nearest mall and try explaining that to anyone in the public.

MR. CARLISLE: The intent on this was to create a test that was minimal cost to the industry, because if you have to buy and opacity tester, which they're out there, you could actually

use an opacity tester to do this, you're talking about another three to four thousand dollars.

CHAIR WEISSER: Which I'm sure Dennis is willing to cover for the industry. Gid?

MEMBER KRACOV: What does the bill do? Does it direct the agency to try to get a regulation on this?

MR. CARLISLE: Correct.

MEMBER KRACOV: And that would be a regulation that would go through a notice and comment period?

MR. CARLISLE: Right, notice, proposal, rule making, the whole process.

CHAIR WEISSER: I think the suggestions associated with the letter and writing some little short thing in the letter associated with both the industry issues that Dennis raised and the low income assistance, I think that's not a bad idea. So, I suggest that you develop some brief, underlining brief, wording. One more comment and then I want to open up to the public. Bruce?

MEMBER HOTCHKISS: I kind of favor breaking the income assistance part out because I think it's a problem all by itself in that -

CHAIR WEISSER: Yes, but I think this is a -

MEMBER HOTCHKISS: - I think we're not addressing necessarily the low income and I think Dennis brought up a very good point about repairing cars or spending money repairing cars

that aren't worth it. And I think that needs to be looked at, not just for the smoke, but for the whole program.

MEMBER DECOTA: And the testing agency needs to know those perimeters so they can advise the consumer.

MEMBER HOTCHKISS: Right, so, although there is a tie-in to the smoking test as well, the Consumer Assistance Program has some problems in my view that need to be addressed so that the people who need the help the most get it and so that we don't waste money fixing cars that really shouldn't have been fixed in the first place.

CHAIR WEISSER: Thank you, Bruce. I'm loath to miss an opportunity, however, to mention to an important legislator who has interest in this issue the fact that we're subsidizing some folks that could buy and sell this building and that money should be going to more deserving -

MEMBER HOTCHKISS: Exactly.

CHAIR WEISSER: And so I like the idea of using this as an opportunity to say that that's just my biases out there. Okay, what I'd like to do is get some public comment and then we'll come back to closure. We'll start in the back of the room to the far right where Tom Addison is appropriately sitting.

MR. ADDISON: Good morning. Tom Addison, Bay Area Air District, just a couple of thoughts in response to some of the issues raised by the Committee.

CHAIR WEISSER: We're going to have to ask you to step over there and start all over, Tom. That mike is not live? (overlapping discussion) Please, Mr. Addison, without further interruption.

MR. ADDISON: All right. Tom Addison with the Bay Area Air District. I appreciate the Committee's interest in this issue and wanted to raise this - give you three different issues that I heard in some perspectives from our organization, the Bay Area Air District. We're also a cosponsor of the measure. This is a subjective microphone, shall we say. A couple of thoughts. One, the issue of low income motorists and costs associated with repair of a smoking vehicle. Certainly the cost associated with repairing of a smoking vehicle much of the time will be significant and that's a significant issue. I just point out to the Committee that right now, under the Vehicle Code 27153, a low income motorist can, and in fact are, being cited for excessive smoke, but they've got no financial ability to come to the State for any sort of funding to cure that problem. And this bill actually, for the first time, makes funds available to low income motorists who've got smoking vehicles. So, our perspective would be that this is actually a positive thing for folks who don't have a lot of money who are driving smoking vehicles, because right now you can get cited and you've got no cash. The second issue,

on the issue of the subjective nature of the test. I guess our perspective would be that right now this is actually one thing that as a motorist, you can see and you can understand. In fact, it's much more objective to the casual owner of a vehicle than many other parts of the test. If I've got a car and I go in to get it analyzed and my CO reading is X and my hydrocarbon reading is Y and my NOx is Z, I've got no idea whether that's accurate or not. Whereas, I can see if my car is smoking. So I would actually say that from the perspective of the owner of the vehicle, this is a lot more real world, a lot more objective than other parts of the test currently. And on the issue, again, this is really sort of a subjective versus objective thing, I happen to work for an agency that's got roughly 80 inspectors in the field today who have all been trained, have all gone to smoke school. Now that's a different arena than - it's the arena of stationary sources of air pollution, but every single one of our inspectors goes to smoke school and is trained to observe smoke, actually measure it in a quantitative way based on what we call the Ringlemann Scale, so I think it's a very doable thing. And with that, I just -

CHAIR WEISSER: Thank you. The buzzer doesn't go off and the electric shock equipment has been disconnected?

FEMALE: The beep light is on. It didn't go off.

CHAIR WEISSER: Okay. I want to make a note as Tom returns to his seat that the Bay Area Air Quality Management District has been, earlier this week, named as a recipient of the Pat Brown Award for environmental and economic balance, along with Metropolitan Transportation Commission and the Bay Area Rapid Transit District for their efforts in spare the air days where they made free transit available two years ago just for BART, last year for a full panoply of the Bay Area Transit System. So, congratulations, Tom. Moving from right to left, there was a question from Mr. Peters, or a comment?

MR. PETERS: Well, stepping up to the non-mic, does that mean that all public comments are not recorded and not a matter for the record. Is that what that means?

CHAIR WEISSER: No, it’s being recorded, Mr. Peters.

MR. PETERS: Charlie Peters, Clean Air Performance Professionals. I also went to the author of this bill’s office and had some discussion. I have supported the issue of the smoking cars being identified and being repaired in this program in decades. Having said that, I also think it’s very important that there’s something here that’s reasonable and the gentleman from the Air District did bring that up that there is training available and some sort of a reasonable standard that doesn’t start at perfection, it starts at some place to really get the bad ones to start

with, which can be changed over time would be a reasonable consideration, which at this time, as I read it, the bill does not incorporate. Another thing that I thought might be important is that there are many Smog Check providers who are quite concerned that when they run a car that is really ugly and smoky and bad that that can cause them significant financial problem, so the issue as to whether or not it would be appropriate to support a test at excessive smoke and how that might be handled and the cost involved and so on is an issue that might be worth consideration by the Committee because you have a behavior issue that you're going to require every Smog Check provider to run this car no matter how bad it is and this is going to cost, and possibly put his machine down and put him out of business, you're going to have a typical conflict of interest with the management of the program creating inappropriate behaviors in the market place, so we need to look at that in a way that is going to work for the motorist and for the provider and for the program in ways that will be most effective, so there may be some message of an aborted test that may be included in the cost limits or something, but that I think is something that's worth consideration by the Committee.

CHAIR WEISSER: Thank you, Mr. Peters. Some good questions.

Mr. Keller, two minutes on the clock for him, please.

MR. KELLER: Okay, Mr. Chairman, I'll make it fast. Marty

Keller, Executive Director Automotive Repair Coalition. To follow-up on what Charlie said, I think also given the ground rule of Smog Check that is you can't touch one single component of this without this completely imploding every other element of it. I think it's important that we look at the issue of reparability. Because as we move to wanting to measure performance based on how well cars are repaired, how effective the repairs are, how long they last, because it really goes to the issue that you raised. Looking at smoking vehicles driving on the road, if that happened three days after the Smog Check, they're not going to be seen again legally for another two years, so what? So, I just think that given the fact that BAR historically works with the industry on establishing training protocols or not only identifying the problems and making sure the tests are run accurately, but to also make sure that the repairs are being accurately logged into the program and that the repairs are effective. And there is a consumer protection element here, that we spend some time in considering what it's going to take to actually repair a smoking vehicle that maybe different from what the Smog Check technicians are currently trained to repair based on the tailpipe results. So, it goes to the question that was raised to Rocky, which is what failures are being identified by the visual smoke test that are not being currently identified by the tailpipe test.

And what new repairs will be required in order to make sure that those cars are effectively repaired. So, it's just - is it a new element? Is it a new kind of repair? Is it something that technicians, as Bruce said, are they just automatically going to know what to do or is this also a new area of inquiry for the professionals that are now going to be required to repair these vehicles.

MR. CARLISLE: Yes.

CHAIR WEISSER: Thank you, Mr. Keller. As I understand it, a smoking vehicle can already be cited.

MR. CARLISLE: Yes, it can already be cited -

CHAIR WEISSER: And as I understand it, repair facilities already repair smoking vehicles. I mean, people come in outside of the Smog Check program.

MR. KELLER: But the good news and bad news that Tom just talked about with respect to this would then bring the potential low income owner of a vehicle into the possibility of getting this also brings all of the management and the surveillance of these repairs into the regulatory system as well where they currently don't exist.

CHAIR WEISSER: Thank you. Randy?

MR. WARD: I would echo Marty's comment. Randy Ward, California Emissions Testing Industries Association. I think that on one hand, we have something that, Mr. Chair, I have to agree with you. How can you oppose the most visible annoyance

that you see from a motor vehicle, which is smoke and also the delicious aroma that when you're behind a car that's smoking occurs. But, it gets much more difficult from there. And I think Dennis pointed that out. But, I would also say I think there's a significant positive. I think we finally figured out a way to get 1976 and older vehicles into the program.

CHAIR WEISSER: Okay. So we have motion that's been seconded that we send a letter in support of this bill. The motion has been amended by this suggestion that we add a brief comment associated with low income assistance, monies being even more needed for this sort of program and commend the legislature to look at the notion of freeing up money going to the undeserving wealthy. I mean that facetiously, of course. And I think I had a second suggestion that we put in there the desirability of perhaps maybe suggesting, Rocky, that the legislation specify the importance of working with the industry in the development of the implementing regulations to ensure a new law be implemented in an even-handed and systematic fashion. So, that's what's before you, folks, so all in favor of sending such a letter, please signify by saying aye.

ALL MEMBERS: Aye.

CHAIR WEISSER: Are there any opposed? Hearing none, the motion carries unanimously. Thank you. Are there any further

items in the Legislative Report, Mr. Carlisle?

MR. CARLISLE: Yes, there's two more. One is another new bill, AB1997, by Assembly Member Cogdill that essentially replaces AB184, but what it does, it scales down the geographical area and it puts time constraints on it as well. It would require that the Bureau develop a program to replace high polluting vehicles with donated vehicles that were clean -

CHAIR WEISSER: Fine.

MR. CARLISLE: - and met certain specifications.

CHAIR WEISSER: Next?

MR. CARLISLE: And then finally, SB953, that was the illegally registered vehicle bill that was going to provide some amnesty, if you will, from prosecution, and that's basically died. It was returned to secretary of the senate.

CHAIR WEISSER: Thank you, Rocky.

MALE: Can I ask you a question about that, if you know, why the bill died?

MR. CARLISLE: I do not. Okay, the next two items. The first one starts with program avoidance and analysis we're doing, and the other is a tire pressure study relative to the safety inspection. These required a lot of data and analysis, and I'm data and my colleague over here is analysis. So I'm going to have him talk about the work we've done so far.

CHAIR WEISSER: Excuse me, a suggestion has been made by a

Committee Member that we might want to take a break, but I don't know, we're so far behind, guys, on our schedule. What I'm going - what's the sentiments of the Committee? How many people want a break right now? Raise your hand if you want a 10-minute break. One, two, three, four. No break. Take a break when you need it. I'm taking a break now.

MEMBER LAMARE: The Chairman has a phone call to make. So, Rocky, you're continuing on at - I'm sorry, I missed what you were saying, with program avoidance, then you expect to talk about tire pressure study, Sierra Research comments, and then we give BAR and ARB report, and then we get to our presentations?

MR. CARLISLE: Correct.

MEMBER LAMARE: I'm a little bit uncomfortable with this in that we have three presenters here who are scheduled for today and we are running considerably behind expeditious.

MR. CARLISLE: Madam Chair, what I might suggest then is maybe we can forego the discussion on the parking lot study and the tire pressure study, but I would like the Committee to have the opportunity to read these.

MEMBER LAMARE: Well, I'd like to get back to these, but I'm thinking that this is all part of our report, right?

MR. CARLISLE: Correct.

MEMBER LAMARE: And rather than put these in the flap with your

executive report, we should schedule these discussions with our discussion about the report, which happens after lunch.

MR. CARLISLE: Okay.

MEMBER LAMARE: And if you have no objection, I'd like to do that.

MR. CARLISLE: I do not. The last thing I just wanted to go over real quick then is some comments for the COE Research work plan.

MEMBER LAMARE: Is that something that we could put off until after lunch as well?

MR. CARLISLE: Absolutely. And maybe what we can do is if you have an opportunity to review those at your leisure, just see if you want to forward this to the Air Resources Board, because some of these have previously been stated, but some of them have not.

MEMBER LAMARE: So, over the lunch break, we'll ask Members of the Committee to review this.

MR. CARLISLE: In their copious spare time.

MEMBER LAMARE: Yes, the draft reports and the Sierra Research, and so where does that now bring us?

MR. CARLISLE: That brings us up to Miss -

MEMBER LAMARE: Updates?

MR. CARLISLE: - Wimberger's presentation.

MALE: BAR and ARB, I think.

MEMBER LAMARE: Updates?

MR. CARLISLE: Oh, I'm sorry. I wasn't looking at the agenda.
MEMBER LAMARE: So, do we have updates this month from the agencies?
MR. CARLISLE: I can tell you that Sylvia Morrow has been promoted and she will no longer be our liaison, so to my knowledge they haven't replaced her with another liaison yet.

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MEMBER LAMARE: Well, let's get to work on that. Hello, Alan.
MR. COPPAGE: Good morning. Alan Coppage, Bureau of Automotive Repair. I won't take too long. Two brief updates to the Committee, one of which is in progress that was brought over from last month regarding the low pressure evap continuing saga with BAR. It was provided that we would implement workshops, public workshops, on the low pressure evap system. Those have been calendared. We have dates for those. They will be completed by the 20th of April of this year. There will be three around the State to address industry issues regarding low pressure evap. The first one of those will be April 4th at the Air Resources Board in Sacramento. The second, April the 18th at the Air Resources Board in El Monte. And then April 20th at the Four Points by Sheraton Hotel in Pleasanton. Those are the three that are scheduled.
MALE: What was the last date?

MR. COPPAGE: I beg your pardon?

MALE: Last date?

MR. COPPAGE: April the 20th.

MALE: Thank you.

MEMBER LAMARE: Great news, thank you.

MR. COPPAGE: And lastly, the CAP vehicle identification numbers that BAR was looking at, the legal opinion about providing those to the Committee. Rocky has been in contacted with staff from the Bureau of Automotive Repair, and as he and I spoke this morning, that issue has been resolved and that information will be provided.

MEMBER LAMARE: Thank you very much. Are there any questions of Mr. Coppage? Rocky?

MR. CARLISLE: Yes, just what time do these start?

MR. COPPAGE: Oh, I'm sorry. The April 4th in Sacramento at Air Resources Board is from 6:30 to 8:00 p.m., April the 18th is 6:30 to 8:00 p.m., April 20th 6:30 to 8:00 p.m. Easy to remember.

MEMBER LAMARE: Great.

MR. CARLISLE: Thank you.

MEMBER LAMARE: Thank you very much. Okay, we're ready to move on to the first of our presentations. I see that all of our presenters are here, which is great, but likely that we will not get them all done this morning. Emily, would you please introduce yourself? Emily has been an asset to this

Committee for some time and is going to make a presentation today. But, could I ask you to introduce yourself?

MS. WIMBERGER: Sure. Can everyone hear me? My name is Emily Wimberger and I'm a Ph.D. student at UC Davis under the tutelage of Dr. Williams in the Department of Agriculture and Resource Economics.

MR. CARLISLE: We have a slight delay, technical malfunction here.

MEMBER LAMARE: Let's roll, boot it up again. So, Emily has been working on providing information to this Committee from a different perspective than we usually have. And she, being an economist, is looking at the economics of the Smog Check industry. And this is in the realm of academic research and so it is an attempt to be of practical use to the Committee but certainly a few steps removed from what we normally look at in terms of immediate policy issues and needs. And, hopefully, this will give us a grounding independent of the special interests that work on this Committee. John?

MEMBER HISSERICH: Well, I just wondered if Ms. Wimberger could use either of the microphones so it would amplify because she speaks rather softly and since the fictitious mic there doesn't amplify very much.

MEMBER LAMARE: The fictitious mic apparently records, but does not amplify, so we're working two microphones.

MS. WIMBERGER: Is this better?
MEMBER HISSERICH: I think so.
MS. WIMBERGER: Okay. I'll try to be quick. I was scheduled to present at last month's meeting and since then my presentation has grown a little bit, so I'm happy I get the chance to speak today rather than in March. Is that better? Okay, sorry.
MEMBER LAMARE: But we don't want to run over this because we have been waiting quite a while for it. And I believe this is at Tab 3 in the Members' notebook, called Smog Check Competition in Fresno. And we're almost there. Do you want to say something about why Fresno is so special?
MS. WIMBERGER: Oh, I'll get to that.
MEMBER LAMARE: All right.
MS. WIMBERGER: Okay, today I'm going to present about the Smog Check station market in Fresno, California, and give a little glimpse of the competition that does exist in this station. I think that this first slide gives a very telling glimpse into the Fresno Smog Check world. In this satellite image of North Blackstone Avenue, there are three Smog Check stations. The building on the upper left hand side is a test-only station, Economy Smog, and the two buildings on the lower right are Smog For Less and Peak Performance. And so, if nothing else, there are stations in close proximity in the Fresno area. Now motivation for this presentation I

gathered from previous IMRC meetings. And while we often focus on the competition between different Smog Check station classifications, I really wanted to look at competition between individual stations and also do so from the prospective of a consumer. To that end, since I don't actually own a car, I conducted a rigorous survey of friends and family to find out how real people choose Smog Check stations. I found out that station location, price, and the hours of operation were the largest factors for people when they chose a Smog Check station. Today, I'm going to look at station competition from the consumers as well as the industry's perspective. Thus, I will look at the local competition as well as competition between existing station classifications, as well as a few modified station classifications that I'll discuss later. In order to analyze these types of competition, I needed to obtain information from Smog Check stations pertaining to inspection price, hours, and location. So you ask, why Fresno? Well, there are currently 218 Smog Check stations under the jurisdiction of the Fresno BAR station and I figured 218 phone calls seemed like a reasonable amount. Fresno is also relatively isolated, so unlike L.A. or San Francisco, the metropolitan area doesn't really creep into the suburbs too much. The next step was finding data. My dissertation advisor, turned research assistant, Dr.

Williams, sorted and organized nearly six years of BAR inspection records. Any inspections conducted at the 218 Fresno stations were extracted from the California data set. Here you see an example of the data. Each line represents one observation, or what I will call a customer transaction. Each observation consists of information describing the current as well as the most recent customer transaction. You notice all the vehicle characteristics have been suppressed, except for the model year and one vehicle may have many records, as each line would represent one test for one vehicle. You look at the second column, which is station I.D. column. That does not correspond to the BAR issued station I.D., but is a randomly assigned number, 1 through 218, just for ease. Station I.D. zero, you'll note in the second line. That indicates that the current test is the initial test of the vehicle. And station I.D. 250 signifies that the test was conducted at a station outside of the Fresno area. Now, in order to focus on the consumer's choice of a Smog Check station and to focus on the performance of individual stations, the unit of observation in this analysis is what I call a customer transaction. And it's different from things we normally look at. This is defined as a first test administered at a specific station in a given 72-hour period. So, an example is I take my car to a test-and-repair station, the car is

tested at 8:00 a.m., repairs are made and the car is retested at 4:30. Now, in this analysis, that will count as one customer transaction because the consumer had to make one decision where to take their vehicle. If I took my car to a test-only station and that car failed and later that day I took it to a test-and-repair station for repairs, that signifies a separate customer transaction because the customer had to make a second decision in regards as to where to take their vehicle. The use of a customer transaction also precluded the use of aborted tests, which were very rampant in the data set. We really weren't concerned with those observations. Does this make sense? Okay, now let's get to Fresno. There are 218 stations in the greater Fresno area and each balloon on this map represents one of these stations. Test-and-repair stations are shown in red. Test only stations are a little harder to see in black and what was green, but is now neon yellow, those are Gold Shield stations. These 218 stations conducted 1,464,020 customer transactions during the period January of 2000 to September 30th, 2005.

MALE: Say that number again?

MS. WIMBERGER: 1,464,020, that's a lot of fun to go through. Okay, the number of transactions conducted by each station varies greatly, from a low of 88 to a high of 43,754 over the nearly six years of records. The five stations that

conducted the most transactions are highlighted in red. Now, see any variation in this graph? Well it made me wonder why stations do such a high volume while others do relatively low volume. In search of answers, I went to the phone and called all 218 stations in the Fresno area to obtain information about prices, hours, and location in an attempt to understand why consumers overwhelmingly choose some stations. I found out some very interesting things. For instance, if you want to name your own price at Michael's Smog Check in Fresno, I said zero dollars and he said how about $25, I said okay. When I conducted these phone calls, I posed as a customer and asked if a station performed Smog Checks and asked what the price was and if they're open on the weekends, if they would accept competitor coupons, if they had a coupon in the yellow book. I also found out some - looking at the inspection cost by station category shows that the medium price for an inspection at a test-only station is well below that of other stations. I was also interested in how the medium prices of new car dealerships and stations that are part of a larger chain would compare. It seems unwise to ever go to a dealer for a Smog Check. The category labeled Chains includes franchise stations like Pep Boys, as well as smaller outfits with more than one location. Okay, I also learned some fun facts. Over half of the 171 stations I was

able to contact are open at least one weekend day and one-fourth accept competitor coupons. I also learned that a few stations either have operating machinery, but are unable to perform Smog Checks or have stations and no technicians or machinery and technicians, but some cars on blocks that were blocking the machinery. Okay, the five stations that conducted the most customer transactions that were highlighted in red in the previous graph are now represented by larger balloons. Notice that the stations with the highest volume are all either test-only stations, the large black balloons, or Gold Shield, the large neon yellow balloon. And these are all in the metro Fresno area. I'd point but my laser pointer is failing me. California Smog Repair, which is a Gold Shield station, had the highest number of transactions with an average of 144 a week. At the other end of the spectrum, the five stations with the fewest number of transactions have averaged one every five weeks. The median station in the Fresno area conducted 3,601 customer transactions or about 11 a week. So why do these specific stations have such high volumes? Do they have lower prices than other area stations, are their hours better? I realized that all my questions were comparing these stations to other stations in the market, but then I had to wonder, how is the market for Smog Check stations in Fresno defined. Looking at the map of all Fresno stations,

it’s not very clear how to define the extent of the market. Is there one large market for Smog Checks or are there a few smaller areas that can be defined as separate markets? My initial thought looking at the metro Fresno area was that there are many small geographic markets. I divided Fresno into three areas that seemed plausible to me. On the left is Shaw Avenue, in the Middle is North Blackstone Avenue and the circle on the right is Clovis. Now, if these three are distinct markets, then the main competition between stations in these areas should be other stations in the geographic reason. If this is true, then we should see the movement of vehicles confined to these specific markets. So, if Clovis is a distinct market, then vehicles should move between Clovis stations and not other stations in Fresno. Okay, to test this theory, I randomly chose two vehicles that had at least one customer transaction occur at the California Smog Repair. I looked at the history of these vehicles and tracked their movement between stations. The first vehicle that I looked at was a ’97 Ford Explorer that had three biennial tests conducted in the Fresno area. As you can see, it blew my little market diagram to pieces. The first test was conducted at the California Smog Repair, the second was conducted at Northgate Shell, which wasn’t even in one of my markets, and then the vehicle moved up to Auto Works. How about another vehicle? I next looked at a 1983 Ford

Mustang whose first test was conducted outside of the Fresno area, then a test was conducted at Thrifty Smog in Clovis, and finally a third test at California Smog Repair. So thus far, my ideas of distinct markets in Fresno, or at least my definitions of the markets doesn't really appear to hold water. But I thought it further analysis. To further analyze the extent of a geographic market, I focused my attention on an isolated group of stations near West Shaw Avenue, which included the California Smog Repair station. By analyzing all customer transactions in this region and tracking the movement of vehicles, I wanted to determine if this neighborhood was in fact a distinct market. Highlighting this area, you can see that there are two Gold Shield stations, one test-only station and four test-and-repair stations in a pretty small area. Looking at station details, the station names that are in green represent the Gold Shield stations and the station name in blue is the test-only station. So, looking at this information, we can see that California Smog Repair is by far the most dominant station in the region. Its price is also one of the lowest and it is open on the weekends. But there's really no definitive reason as to why it's so popular, at least in my mind. Looking at the customer transactions per month shows that California Smog Repair has been the dominant station over the entire data set. But it also shows that there is

definitely a downward trend in transactions per month. Shaw Avenue, the Shaw Arco and Car Tech are relatively new stations. You can see Shaw Arco in the bright green and Car Tech in blue, so that might be a cause of the downward trend, as well as Smog Check regulation. You'll notice that Harold E. Jones, which was a new car dealer, stopped doing Smog Checks in September of 2003. Now, this matrix diagrams the movement of vehicles between stations. Down the left hand side, you will see the names of the current stations and along the top you will see the previous station that these transactions occurred at. So, if a car moved from Harold E. Jones to Car Tech, you'll see that's represented by a zero in the matrix. Repeat business is shown in bold along the diagonal. Now, looking at the off-diagonals, you can see that those are pretty small numbers and this shows that there's very little movement between stations. I was especially surprised that there was very little movement from Shaw Arco to Shaw and West. Shaw Arco is a test-only station while Shaw and West is a test-and-repair station and they're practically across the street from each other. Well, it turns out that Shaw Arco, there are more transactions that moved between Shaw Arco and California Smog than Shaw Arco and Shaw and West. And during the phone interview, I realized that this might be due to the fact that Shaw Arco charges $24 to retest the vehicle, so it

might be more cost advantageous for consumers to simply take their car to a Gold Shield station. Looking at the movement on the map, we again see that there's very little movement, especially given that over 1,000 vehicles moved into this neighborhood from outside the Fresno region. I looked at the movement, again, given 60 days between customer transaction and again it shows very little movement between Smog Check stations. Basically, it confirms the previous results. The little movement between stations shows that competition between stations is really not confined to the Shaw Avenue region. So, then the question is where does Shaw Avenue draw its vehicles from and what stations are its main competitors. Now, again, down the left hand side, those are a list of the current stations conducting the transaction and along the top are the previous stations. The first two columns represent movement within the local region. The third column represents movement from other Fresno stations to this region. The fourth column represents movement from outside of the Fresno region to the specific stations. The last two columns represent vehicles that appear for the first time at one of these area stations. The column labeled initial test represents those vehicles that are first tested while first appearance represents vehicles who may have undergone Smog Checks prior to January 2000 and thus are not contained in the data set.

Some disturbing information - to formulate the initial result column, I looked at the BAR data set and any record that had an I in the inspection reason category, I labeled as an initial test. Well, it turns out that 14,213 cars or transactions had an I in the inspection reason category, but also had their first test conducted outside of Fresno. And when we conducted the data set, these records were expunged from the data set. So this shows that possibly the inspection reason category in the data set is not at all reliable. So, again, there's really not much movement between stations and consumers either tend to stay at the same station or go to other stations in Fresno. So maybe this area in the Shaw Avenue neighborhood really isn't that isolated. Maybe it's part of a larger Fresno market. So, I thought may Reedley, which is very geographically isolated would be a better candidate to investigate and see if it is a distinct geographic market. Here's a map of downtown Reedley and Reedley is home to two Gold Shield stations, one test-only station, and nine test-and-repair stations. You'll notice that three of the test-and-repair stations are new car dealers. That's 12 stations in very close proximity. Looking at the overall volume of transactions conducted by the Reedley stations, you'll notice that there are two stations on the left whose volume dominates that of the other ten stations. Those two stations conducting the

highest volume of transactions are Joe's Automotive and Reedley Smog. Now, looking at the prices for an inspection, it really appears that your Smog Check buck goes a lot further in Fresno than in Reedley. Also, notice that the only test-only station, King River Smog, no longer conducts inspections, meaning that all directed vehicles inside of Reedley will have to travel outside of the area to obtain a Smog Check. This graph is a little crazy, but you'll notice that Joe's Automotive in red and Reedley Smog in blue have been the dominate stations conducting the most transactions over the entire data set. We're here at the movement between stations in Reedley. We can see that vehicles tend to patronize the same station, but again there's really not much movement between stations. I did find it interesting and highlighted in red the movement between Reedley Smog and Joe's automotive. For some reason, those two stations appear to send a lot of business back and forth, but I could find no connections between the stations. Looking at the movement on the map, it's surprising to me that 750 transactions moved from Reedley Automotive to Joe's where only 96 moved to Reedley Automotive, which is really, really close. It's the other Gold Shield station right next to Joe's. The majority of transactions moved to Reedley from other Fresno markets. I again include a column that is meant to identify initial tests. As I was a little

suspicious of the accuracy of the inspection reason variable, I created another variable labeled initial and no previous. This means that the inspection reason was labeled I and the previous station category was labeled zero. Now, it's very interesting to note the discrepancy between these two columns. In theory, they should be the same thing because if the car is having its initial test, it should not have been tested previously at another station. But there is quite a variation between these numbers. Kings River Tire seems to be an anomaly in this area. It drew more of its transactions from the other local stations than from other Fresno stations. The larger portion of the transactions stay in Reedley as opposed to the Shaw avenue neighborhood, it is still not apparent that it is a distinct geographic market. The stations in Reedley compete with other Fresno stations and not solely with each other. In part, this lack of movement might be due to the fact the only test-only station in Reedley did close in 2000. That might draw transactions out of Reedley into other Fresno areas. So, in my estimation, it appears that there is most likely one big Fresno market. Stations then face competition with all other 217 stations in the Fresno region making any sort of comparison between individual stations rather difficult. I didn't want to make a 218 by 218 matrix. Concluding that there is one large geographic

market in Fresno, how can I characterize the competition between different station classifications in this region? Now we're going to look at things in the aggregate. Looking at all the stations in Fresno, there are 218 total stations, 39 test-only, 21 Gold Shield, 154 test-and-repair, and 4 F-classified stations. These are stations like Verizon and UPS that don't do Smog Checks for the public and the results of Smog Checks conducted at these F-classified stations are not included in the data set. Looking further into the standard station classifications, two Gold Shield stations are part of a chain of at least two stations, 15 test-only stations are part of a chain, as well as 32 test-and-repair stations. Twenty-three separate test-and-repair stations are also classified as new car dealers. Looking at the total Smog Checks over time for all 218 stations you can see that the total number of Smog Checks has been increasing in Fresno over the data set. Looking at monthly volume by station type, we see that test-only stations have overtaken test-and-repair stations as of January 2004 and now conduct more Smog Checks a month than test-and-repair or Gold Shield stations. I then calculated pass rates, in parenthesis, for each station classification. Now, these results come with a very large caveat. They are the pass rates for all customer transactions in the Fresno region, not for all inspections or even all initial inspections. So, it's hard to take

these results and directly compare them to other BAR findings. Nevertheless, I think these results are interesting and in using these station classifications we assume that the categories are homogeneous, but are all stations in a given classification really similar? Is there a better to classify and analyze stations? This graph introduces a new station category, new car dealers, which is in fuchsia on the bottom. The test-and-repair category graphed in blue no longer contains these stations. As you can see, dealers do not perform a large volume of Smog Checks, but the pass rate at new car dealers is widely different than the pass rates at all other test-and-repair stations. Thus, it is not clear to me that dealers have much in common with other test-and-repair stations. What if we introduce a different station classification and separate out all stations that are part of a chain. This includes 15 test-only stations, 32 test-and-repair stations, as well as two Gold Shield stations that failed to make the slide. The graph of the number of transactions per month shows a remarkable growth in the volume of transactions conducted at chain stations. In fact, chains conduct a higher volume of transactions than test-only stations. Now, this was what really surprised me. Looking at pass rates, we see that chain stations have the lowest pass rate of all station classifications. For removal of chains from the test-only

category increases the test-only pass rate so it more closely resembles test-and-repair stations. In this graph I add chains and I add the category of dealers. The volume of dealers you'll see is very similar to that of Gold Shield stations. So my question is why is not an individual category itself. You see that there are five station classifications that chains still dominate test-only stations, which is still surprising. Initially Gold Shield and test-only stations had similar pass rates. The now Gold Shield and chain stations are similar and test-only more resembles the pass rate of test-and-repair stations.

CHAIR WEISSER: Slow up for one second here.

MS. WIMBERGER: Yes, sorry.

MALE: There's no overlap now between any of these five categories?

MS. WIMBERGER: No, so in this chart, the test-and-repair stations consist of test-and-repair stations that are not chains and not dealers. And the chains have been removed as well from test-only and Gold Shield categories.

MEMBER KRACOV: The chains contain both test-only and test-and-repair?

MS. WIMBERGER: Yes. And I use the term chain a little loosely. This includes franchise stations like Pep Boys, or if Charlie owns two Charlie Smog Checks, that's also considered a chain.

MEMBER KRACOV: Initial pass rate or -

MS. WIMBERGER: This is for customer transaction, over all customer transactions.

CHAIR WEISSER: Gideon, you need to identify yourself so the transcriber doesn't go crazy. A question here?

MS. WIMBERGER: Yes.

CHAIR WEISSER: Did the chains include test-only -

MS. WIMBERGER: Yes.

CHAIR WEISSER: - and test-and-repair?

MS. WIMBERGER: Yes. So, it includes, I think there is 34 - there's 32 test-and-repair stations in chain, that are classified as chains, 15 test-only, and two Gold Shield stations.

CHAIR WEISSER: And assuming that the cars being directed to the test-only are being directed because there's a higher probability that they're going to fail and I look at test-only and there doesn't seem a dramatic difference from test-and-repair for Fresno. This raises the question in my mind whether the HEP is deficient or the testing is deficient.

MS. WIMBERGER: Do you have a question?

MEMBER KRACOV: This is Gideon Kracov, and another question, too, is the test-only, they're not getting the cars after the repair necessarily. The test-and-repair is testing them, the ones that pass and fail in the first instance and then also testing them after the repairs are made.

MS. WIMBERGER: Yes. If that does occur, the definition of a customer transaction is only picking up the first test conducted by the test-and-repair station.

MEMBER KRACOV: You're not getting the second transaction.

MS. WIMBERGER: No, because that's considered - if it's within a 72-hour period, that falls into the category of one customer transaction.

CHAIR WEISSER: Dennis, and then we're going to let her -

MEMBER DECOTA: Just one question. On the chains, I would assume that those chains maybe test-only.

MS. WIMBERGER: Yes, they are.

MEMBER DECOTA: They may be Gold Shield.

MS. WIMBERGER: There's 15 chains that are test-only stations and two are Gold Shield.

MEMBER DECOTA: And two are Gold Shield.

MS. WIMBERGER: Yes.

MEMBER DECOTA: And the rest are test-and-repair?

MS. WIMBERGER: Thirty-four or thirty-two.

MEMBER DECOTA: I'm sorry, I'm trying -

CHAIR WEISSER: Thank you.

MS. WIMBERGER: Thirty-two.

MS. WIMBERGER: So, we currently have two Smog Check station classifications. Why not two? This graph combines test-only and Gold Shield stations into one category. And you'll see that this new hybrid category, again, does overtake the

test-and-repair volume in January of 2004. Review the pass rate comparisons of the original three category set up and this new hybrid set up and you'll see that the number of events conducted by each category is pretty similar, but there is really not much difference in pass rates between the original and hybrid scenarios. So, it's really not obvious to me that one scenario is preferable over the other. What about three new categories? Given the dominance of the growth of chain stations, this scenario is very appealing to me, but regardless, if you agree with these three new categories or not, I think it's very evident that chain stations have had a very surprising growth in the Fresno area. But has the number of chain stations increased or has the volume of transactions per chain station increased over time? From this graph, it is clear that the number of chain stations in Fresno has increased greatly over time from a low of nine to a high of 30. The median volume per chain station also has increased over the data set. And the question then is, how has this increase effected other station types. So, you can see the median number of yearly transactions for each station type has been in decline since 2004 and the trajectory of test-and-repair stations is very similar to that of Gold Shield stations while both test-only stations and chains experience periods of rapid growth. What if we look at station classifications

from a new angle and divide transactions conducted at test-only stations into those that were directed and those who were volunteers. Again, it is surprising that the volume of voluntary transactions at test-only stations has grown much higher in volume than the directed vehicle transactions.

MEMBER HISSERICH: Could I ask a question, Mr. Chairman, it's John Hisserich.

CHAIR WEISSER: Yes.

MEMBER HISSERICH: The growth in the chain stations, is that new stations coming into the market or maybe existing stations being acquired and converted?

MS. WIMBERGER: I'm not really sure. I know that the number that classified as chains as increased, but I don't have any data if they've changed from privately owned to franchises.

MEMBER HISSERICH: Okay.

MS. WIMBERGER: Okay. Adding a chain classification to this new graph of classifications shows that the volume of transactions at chain stations still dominate all other categories. And in the realm of directed versus voluntary transactions conducted at test-only stations, I think for future research, I think it would be very interesting to investigate the pass rates of these directed and non-directed vehicles. If these calculations are any indication, I think they will yield very interesting results. I think it's especially surprising that the

vehicles that are randomly directed to test-only stations have a very similar pass rate to those vehicles that are directed by the high emitter profile. And that definitely warrants further research.

CHAIR WEISSER: Don't move yet.

MS. WIMBERGER: Okay. And then in -

MEMBER LAMARE: You're only - I'm sorry. So the random directed and all test-only except directed, so the second one includes all the volunteers as well?

MS. WIMBERGER: Yes.

MEMBER LAMARE: So, you're comparing the randomly directed to -

MS. WIMBERGER: To everyone.

MEMBER LAMARE: - to everyone, which includes directed and volunteers and you get the same number.

MS. WIMBERGER: Yes. Again this is assuming that the inspection reason variable in the BAR data set is accurate, which is dubious. And I know this was a lot of information to throw at you. But, I think basically what this research has shown me is that further research is warranted in a lot of different areas. I think it appears that we really can't divide the Fresno markets into smaller geographic markets to analyze competition and it appears Smog Check stations do compete with different stations in a large geographic area. I also think that the current classifications of Smog Check stations really deserves further investigation to see if the

way that stations are currently classified is the most accurate.

MEMBER KRACOV: Did you have - this is Gideon Kracov. Do you have any conclusions on the issue of fail and pass rates when comparing test-only to test-and-repairs?

MS. WIMBERGER: In what respect?

MEMBER KRACOV: Well, I mean we go back a few pages and that's of course an issue that's of great interest to the Committee. This says you're breaking it down to chains and others, the more you break it down, at least it appears from some of the numbers, although it's just a preliminary look at it, that the difference is what we are taught to expect maybe don't appear.

MS. WIMBERGER: I would agree. The differences that I anticipating finding, I really didn't see, which is why I introduced these new station classifications in an attempt to find similarities between stations in a given classification.

MEMBER KRACOV: And you think that perhaps the role of the chain stations can account for some of the differences that we are taught to expect?

MS. WIMBERGER: I think so. And I also think that the chain category as I've defined it, really does deserve further examination and possibly dividing that further into stations that are franchised and stations that are a smaller

organization.

MEMBER KRACOV: Thank you.

CHAIR WEISSER: We're going to go Jude, Mr. Pearman, and then John. Jude?

MEMBER LAMARE: Looking just at the transactions within chains, did you compare test-only to test-and-repair on -

MS. WIMBERGER: With the new chain category?

MEMBER LAMARE: - on pass rate?

MS. WIMBERGER: No, I didn't.

MEMBER LAMARE: Because that seems doable and -

MS. WIMBERGER: That is very doable. I could get that to you.

CHAIR WEISSER: Mr. Pearman?

MEMBER PEARMAN: Robert Pearman. Two questions, first, could you define again how you defined pass, because I know verbally you said in parens and you've got an asterisk by it in the written material.

MS. WIMBERGER: Oh, yes. The asterisk is just to represent that this is a pass rate of customer transactions and it's not a pass rate for all inspections. I just wanted to make it clear that this really can't be compared to BAR pass rates that are looking at - they're using a different unit. They're not using customer transactions as I've defined it. They're using individual tests.

MEMBER PEARMAN: So, while maybe the comparison and the results between the categories would be useful, it's not necessarily

direct comparison to the existing BAR and program pass rates.

MS. WIMBERGER: Exactly. Exactly.

MEMBER PEARMAN: Okay, good. And then you start off by talking about why people go to certain stations and I didn't see you look really at advertising and marketing except for the use of coupons passed, but it seems to me TV advertising or having a full page in the yellow pages versus nothing would be a huge difference. Was that looked at at all?

MS. WIMBERGER: I did attempt to gain information about that by calling stations, but people really - the people who answer the phones, at least, that I talked to really had no idea if they advertised or if they didn't advertise. So I really - it was just a lack of information. I tried to get information about advertising. I do agree that it would have a big impact, but I wasn't able to obtain that information.

CHAIR WEISSER: John?

MEMBER HISSERICH: Actually I was gonna ask about the advertising as well, because it seems to me that the chains now maybe could get column inches in the paper or square inches in the yellow pages or something like that. Obviously, it's not part of the data set you have, but it would be interesting because your T.A. here and I were just discussing that media was the impact of advertising for

chains and so somehow to tease that out would be interesting.

MS. WIMBERGER: I was hoping to capture that a little bit by asking if they use customer coupons and those are often in the yellow book and are predominantly featured. So, I was hoping that asking the question about coupons would capture a little bit of the advertising effect.

MEMBER HISSERISH: Those free advertising things that are often given out door-to-door often have those kind of coupons.

MS. WIMBERGER: Yes.

CHAIR WEISSER: Jeffrey?

MEMBER WILLIAMS: It might be worth commenting in passing about the new car dealers, because we expected, or I expected, a big drop off in 2005 because they wouldn't be doing change of ownership. But, that line stayed pretty much flat.

CHAIR WEISSER: I can think that it could stay flat because people who buy cars and then bring their car for regular repairs to the dealership which they may have purchased the car at, they're going to keep coming back. Many of these cars are company cars and they just don't care if it's $83 versus $49 or whatever. Did we let you finish your conclusion remarks?

MS. WIMBERGER: Yes.

CHAIR WEISSER: Well, I think it's striking data and the numbers at least speak for themselves, particularly in terms of the

differentiation when you pull the chains out of the performance level it raises all sorts of questions in my mind associated with how we define higher performing and I think it's ample food for thought for all segments of the industry, particularly in terms of current legislation that's floating around, so on behalf of the Committee, before we get any public comments that would like to be made, I would want to express gigantic thanks for the effort and, as you said, I'm glad we didn't have to wait until March to get you on because it would have gone further.

MS. WIMBERGER: I would have been here all day.

CHAIR WEISSER: Now, I will say something about your presentation. You moved through many of these slides extremely quickly and I'm wondering if you have written materials in addition to the charts, a narrative that we can somehow avail ourselves of to, at a more leisurely pace, kind of follow what went on.

MS. WIMBERGER: I could put something together.

CHAIR WEISSER: I would really like to see something like that. So what I'd like to do now is open it up for questions from the public or comments and then we will proceed from there. If you could remain nearby, you might be needed, undoubtedly will be needed to respond. We'll start from the right hand side of the room. Mr. Peters?

MR. PETERS: Yes, hello, Mr. Chairman. The mic and the non-mic,

we'll get them all coordinated here. Charlie Peters, Clean Air Performance Professionals. I was confused by part of what was said there and maybe that could be clarified. When we were talking about failure rate per transaction, it appeared that a test-and-repair and test-only was about the same, so that means that somebody goes to a test-and-repair station, it fails, they get it fixed, it passes, and so that goes into the pass category. Then somebody goes to a test-only and it fails, they go to a - does that mean that the test-and-repair is failing a lot more cars than the test-only or am I missing something here?

CHAIR WEISSER: I'm not going to try to reply to that, but perhaps, Emily, if we could get Randy to -

MR. PETERS: Was there something there that I said was confusing or was -

CHAIR WEISSER: Could you just repeat that quickly?

MR. PETERS: Okay. A car goes to a test-only station and it fails. That counts as a percentage of fail. A car goes to a test-and-repair station and fails and is repaired and passes. That goes into the pass portion of that station's evaluation; is that correct? So if that is correct, is that saying that the failure rate of test-and-repair is higher than the test-only, or am I confused?

CHAIR WEISSER: We'll let the research assistant reply to that. Mr. Williams?

MEMBER WILLIAMS: You're a little confused, but there's some issues of definition here. How many days did it take the repair to be made. If it was done within three days, 72 hours, we only see the initial fail in either way. And more complicated is that if it failed at test-only, spent some days at a test-and-repair, maybe it was even tested there and came back to the original test-only, then there - but most of the time, you see a fail in the morning, a couple of aborted tests through the day and a final pass that's showing up only as a fail and that final pass doesn't count unless it took four days.

MR. PETERS: I'm confused. So, a car goes to a test-and-repair station and I would suspicion that if it doesn't pass, it probably - a reasonable percentage of the time gets repaired that day and certified.

MEMBER WILLIAMS: And that creates one customer transaction and one failure.

MR. PETERS: And so that is evaluated as a failure.

MEMBER WILLIAMS: A failure.

MR. PETERS: The initial test is the failure, not - I understood her to say that if it passed at that station in that timeframe, it showed as a pass.

CHAIR WEISSER: No.

MEMBER WILLIAMS: No.

MR. PETERS: Okay.

MEMBER WILLIAMS: Where it might show up as a pass is it fails at a test-only, it's taken to a Gold Shield, they see what's wrong, they fix it, and then it passes. That's a pass and it's counted twice because it went to a different shop.

CHAIR WEISSER: In this particular methodology, I think that's the key. She had to come up with some sort of striation of data in order to -

MS. WIMBERGER: Yes.

MEMBER WILLIAMS: And only if it went to a different shop.

CHAIR WEISSER: Right. Okay. Moving right to left, let's go.

MR. NABRIGA: Larry Nabriga, Automotive Service Councils of California. I think it would be very interesting to find out why test-and-repair does so many transactions - or test-only does so many more transactions than test-and-repair given the numbers of stations. One of the big gripes in my industry has been that because of all the directed vehicles, I can't stay in business. And I don't - this, to me, shows that's definitely not the reason you can't stay in business because there were huge numbers of transactions that were non-directed vehicles going to test-only. It would be very interesting why did they choose test-only.

CHAIR WEISSER: Emily?

MS. WIMBERGER: I was very interested in that myself and I was hoping that there would be a clear-cut answer given hours of operation or prices. And again, it seems that most of the

test-only stations are newer stations, so maybe they have fancy waiting rooms or coffee, so I think there's a lot of intangibles that I didn't really capture, but I think that is a very interesting point.

CHAIR WEISSER: Okay. Marty, then Bud.

MR. KELLER: Marty Keller, Automotive Repair Coalition. I just want to compliment you and Dr. Williams. I think that the value of this is not just for what it tells us, but it's really powerful to have a different way of looking at this program and this database, regardless of it's total accuracy or not, with all the asterisks that we can put, it has information that is still yet to be unlocked and revealed about how this program is working and the key issue that she's raised with the study is an issue that's almost never studied. And I know that Jude started that last year with her customer survey thing, which is why do consumers make the choices that we do because ultimately we're the ones paying for the program and we're the ones making the decisions. We're the ones seeking to evade failures or we're the ones seeking to get our certificates and so forth and that's what drives all of the things that we, at the different levels of professionalism in this program, have to deal with. So, I don't know because I know your budget is miniscule, but any ways that we can encourage other academics to take on some of these issues and look at them

from these other points of view, particularly from the way the customer is looking at this. Because I can tell, when I was at the Bureau, that was the biggest single frustration. We had no way of knowing how the people who were actually making these accumulated market decisions were going to respond to this program. So, I just really want to congratulate Emily and Dr. Williams. This is really powerful stuff and just the tip of the informational iceberg that needs to be - to mix metaphors mind.

CHAIR WEISSER: Well stated, Marty.

MEMBER DECOTA: I have a question.

CHAIR WEISSER: Yes.

MEMBER DECOTA: Mr. Keller, you said you represented the Automotive Repair Coalition?

MR. KELLER: Yes, sir.

MEMBER DECOTA: I thought you were a representative of the California Automotive Business Coalition.

MR. KELLER: Thank you, Dennis.

MEMBER DECOTA: All right.

CHAIR WEISSER: That went right over my head. Mr. Ward, are you going to approach the microphone?

MR. WARD: Rather quickly, Mr. Chair. Randall Ward, California Emissions Testing Industries Association. I was looking forward to seeing Emily’s work and I think that she did a laudable job and I think this study was focused on more of

the economic side of the marketing equation and I think while I'd like to think that Larry was right that test-only had a huge population of business, I think that her data didn't really tell us that because it doesn't account for retest. It counts for occurrences of a customer causing a transaction to happen at a smog repair station. So, in many cases, that could be a retest following a repair. In many cases, those aren't occurring within two, three or four days. It could be a week or sometime thereafter. So, I think from at least my understanding of her goal was to try to see why there was some kind of a selection among parties and what the nature of the competition out there really was as opposed to a distinction between station types for purposes of trying to evaluate them as an individual station type other than for a marketing purpose. Thank you.

CHAIR WEISSER: While that maybe so, Mr. Ward, I am still struck with the relative parody of pass rates between the test-only and Gold Shield when you exclude the chains and the dealers. Particularly after I paid $120 bucks for one - company car. Randy?

MR. WARD: Well, I think one of things we all have to remember, and I think the Committee Members all know this as well, is that on an OBD II vehicle, '96 and newer, there should be no difference between the test result of a test-only, Gold Shield or test-and-repair. There really shouldn't. The

only subjective element of that test is the visual. And all technicians have the same training, so for those vehicles there should be no difference.

CHAIR WEISSER: So, in that case, why do we direct any vehicles after ’96? Why not only have vehicles between ’75 and ’95 being directed to test-only?

MR. WARD: Well, other than the random, that’s pretty much the case.

CHAIR WEISSER: Is it?

MR. WARD: Yes. Other than the random, that’s pretty much the case.

CHAIR WEISSER: Bud, and I’m sorry to drag this on. We need to move on to our next presentation.

MEMBER HISSERICH: Could I just ask one quick question of Emily? Oh, I’m sorry, go ahead, Bud. Pardon me.

CHAIR WEISSER: Okay, Bud?

MR. RICE: Yes, Bud Rice, Quality Tune-Up Shops. So, I am one of the chains. We have a number of locations and -

CHAIR WEISSER: Well, you did really well, Bud. You’re buying lunch.

MR. RICE: Pizza for everybody at a chain place. One of the things that I thought was kind of interesting in looking at that data is it kind of goes back to I guess some of the screaming at the wind we’ve been doing from the beginning that in the end, you’re going to find that the test is test,

the techs are techs and that's the way it is. I think that's what you're going to find even after you get a chance to analyze and dig into this data a little bit deeper. You're going to find that the test is the test and techs are the techs.

CHAIR WEISSER: Thank you. John, and then I'm going to close this down so we can move on.

MEMBER HISSERICH: That's all right.

CHAIR WEISSER: Okay. I'd like to move then, to our next presentation. We're really fortunate to have Patricia Monahan from the Union of Concerned Scientists, and I'll just say on a personal note that I have found working with the Union of Concerned Scientists to be one of the more rewarding experiences of my career and in terms of relationships between my stakeholders, business and labor and the environmental community, UCS has been a constructive contributor to this sort of public dialogue that we need in order to form the most rational public policy approach towards environmental challenges in California as possible. We are arranging for technical details to be worked out at this point in time. Is that correct, Mr. Carlisle?

MR. CARLISLE: We got it.

CHAIR WEISSER: But we're just about there.

MS. MONAHAN: I made copies of the slides.

CHAIR WEISSER: Thank you, I'll pass these around. And

Patricia, if you could identify yourself for the transcriber, that would be real helpful.

- o0o -

MS. MONAHAN: Okay, my name is Patricia Monahan. I'm a senior analyst with the Union of Concerned Scientists and I'm here today to talk about light duty diesel cars and Smog Check. And I want to caveat my presentation - oops.

CHAIR WEISSER: Okay, so that's not a good place for that.

MS. MONAHAN: I want to caveat my presentation with a disclaimer that I'm not an expert at all in Smog Check. I work on diesel issues in California. I focus more on heavy duty, but some on light duty, and I'm here to talk about some issues that are upcoming with light duty diesel cars and how that relates to Smog Check and the fact that currently light duty cars are not included in the Smog Check program. So, why was there no Smog Check for diesel historically? First, because diesel emissions compromise the equipment. Basically diesel, PM and NOx emissions are so high that the equipment, my understanding from ARB is that it would distort the results and you couldn't get accurate readings. And more I/M equipment was never developed specific to diesel because it was such a small part of the market. I'm going to talk about all these in a little more detail in the rest of the presentation. And the reasons why we should think about including diesel are an anticipate rise in

diesel sales over the next decade and new tailpipe standards that are coming into effect that will, for the first time, hold diesel to the same standards as gasoline cars and we're expecting there might be some emissions control failures as these new technologies are being vetted in the market. So, first the question of whether diesel cars are going to make a comeback. You can see this somewhat obscure chart that we did have high diesel sales, relatively high diesel sales, about five percent, in the early '80s. Those were subject to a lot of problems and disgruntlement by the consumer so diesel car and light truck sales dropped precipitously. They've been making a slow comeback over the last several years and now they comprise about four percent of the market. Most of that is with trucks, very small percent is with cars. But, several folks are reputable research organizations are anticipating an increase. J.D. Powers and Associates anticipates an increase to about seven and a half percent of the market by 2012. In Europe, about half of the light duty vehicle car sales are diesel and so car manufacturers see an untapped market here in the United States. A lot of the problems with the earlier generation diesels have been resolved. They're not as loud, they're not subject to as much knock and as much performance issues as they used to, so I think car manufacturers see it as a potential for incredible growth here in the United States.

And there is some motivation and some discussion of the use of diesels to achieve greenhouse gas emission reduction targets because diesels can afford 25 to 30 percent higher fuel economy than their gasoline counterparts. These are the new standards that are coming into effect that will, for the first time, make diesel compete with gasoline on an emissions performance basis. You can see where today's diesel car is today. It's way out there. Basically, in California, they're emitting .08 grams per mile particulate matter. That doesn't sound like a lot, but it is. And some - this is just in California. Actually, nationally, diesel cars pollute more. The rev-T standards are that small little box down in the corner and you can see that diesel cars have a long way to go to meet that. Gasoline cars are today emitting their lowest standard - or rather the more strict standard, the blue circle that's representing SULEV cars running on gasoline today. Now, diesel, as I said have historically been allowed to pollute at higher levels than gasoline. On-road tests indicate that diesel cars emit 12 to up to 100 times more particulate matter per mile than gasoline, and about twice the amount of nitrogen oxides. The key to achieving the new standards is available is what's called ultra low sulfur diesel fuel and that's diesel fuel that's down to 15 parts per million of sulfur. That's very low sulfur level. Here in California, most of the

refiners are saying they're going to achieve that target. Some already have. There's some concern nationally of whether that fuel is going to be available. There's concerns about contamination in pipelines and whether we can rest assured that every gallon will be 15 ppm across the country. And that does relate to California since California cars will be traveling out of the state and could have their emission controls compromised from having higher sulfur fuel. So, let me talk about some of the controls, technologies, and why we're concerned about them and excited about them. NOx controls are the most challenging for diesel vehicles. Basically, these are going to be showcased on the market for the first time ever in light duty vehicles and so there's a lot of concerns about how they're going to perform under real world conditions. There's two sort of premier NOx technologies. The first is called selective catalytic reduction, SCR, and this uses a chemical agent to convert NOx into water. Now, the reagent, it's very important to get the timing and the amount of the reagent correct. If you put too much of a reagent, you basically have an emission to the atmosphere of a toxic chemical. If you put too little in, you're going to have an increase NOx pollution. Now, this technology requires a regular refill of the reagent and the efficiency could drop to zero if you don't put in the reagent at the right amount of time and

this has been a big point of concern in the environmental community, I think by EPA, about how you can assure that the refill happens at the right time. There's been various proposals out there about having it timed to your oil changes, GM is saying they only need to recharged every 10,000 miles, and there's some discussion of co-fueling at gasoline stations, but really there's not, as far as I know, a consensus on how we're going to assure that the SCR technology is refilled - the reagent is refilled at the appropriate timing. The second technology for NOx control is called a NOx absorber. I'm going to spend a lot of time on this because it seems as though SCR is going to be the dominant - at least it looks like that's going to be the dominant technology for light duty achievement of the standards. NOx absorbers do have some durability concerns, they're very sulfur sensitive. Car manufacturers are saying they might need lower than even 15 ppm to make sure that the equipment works.

CHAIR WEISSER: Could you go back on the fuel penalty?

MS. MONAHAN: I don't know how to go back.

CHAIR WEISSER: Okay, never mind.

MS. MONAHAN: Sorry, I don't know what I'm doing here.

MS. LAMARE: Previous.

MS. MONAHAN: I actually don't have a - do want a percentage of fuel penalty associated with it?

CHAIR WEISSER: Do you know?

MS. MONAHAN: I hear two to three percent.

CHAIR WEISSER: Okay.

MS. MONAHAN: So the - for controlling particulate matter, technology is a more known quantity, we have a lot more information about real world performance, which I'll be talking about. But the way that car manufacturers are going to achieve the PM standards are through what are called traps or filters. And what they do is they convert the pollutants into carbon dioxide and water. And they can have up to a 99 percent control efficiency, somewhere between 85 and 90, and 90 is more common. Where there is more than 200 of these traps available on vehicles right now, most of them are what are called passive traps, some of them are active traps. Basically, passive traps don't need an extra - anything to ignite the particles and make them burn off. They change sort of the temperatures needed for regeneration or burning. They lower the temperatures needed and so they regenerate passively. Active traps need some kind of hydrocarbon fuel or another chemical to burn off the soot particles and make the trap regenerate. So here's where what we've experienced here in the United States with what are called retrofits. You take the original equipment and you put on one of these traps and here's what happens. We found that you need regular maintenance. That was a

surprise that these traps needed to be cleaned periodically. It was also a surprise, to me at least, that so many traps failed to perform as anticipated and basically if you get the exhaust temperatures too low, then the traps don't work. And we found that in several instances with school buses and there was a recall in San Francisco transit buses. Those were actually new buses that had to be recalled because the traps didn't work. There's more experience in Europe with the traps, but basically, on light duty vehicles it's given as an option so if you are purchasing a vehicle, you can check the box that says I want a trap and your vehicle will come equipped with a trap. That's been a new phenomenon the last several years as Europe has grown more concerned over toxic diesel emissions. And there's been a surprising number of folks, particularly in Germany, voluntarily paying the extra cost for traps. Now, how these traps are performing under real world conditions is unclear to me. I haven't seen any studies that have evaluated - I don't know if there are any studies ongoing - evaluating the on-road performance. There is a study evaluating the in-use performance of construction equipment that's been retrofitted with traps. What they found - now construction equipment I want to say first, is a more difficult piece of equipment to retrofit because it has a lot more soot coming out of it. And what they found was that originally they had

one out of ten of these traps didn't perform well. Now the failure rate is down to two percent. But, from my take-home message is that even the traps, which we have a lot more experience with, fail. And they fail in the first couple of years at a higher rate than they're going to fail over the long term. This in my mind calls for the importance of very effective onboard diagnostics. We've seen in the diesel heavy duty industry some instances which I characterize as foul play, basically the manufacturers messed around with the software, it's called cheater trucks, the defeat devices that were installed on and basically by changing some of the software on the vehicle, there were higher NOx emissions under certain drive cycles, up to a 70 percent increase, actually, and this led to the largest settlement ever in EPA and CARP history. So we have some reason to be concerned about what can be done with the emissions controls. The current OBD, on board diagnostics, is same every year, it's a gasoline or a diesel vehicle, and basically the system is activated when the emissions are 1.5 times greater than the standard and it's based on a computer program. So, when I think about defeat possibilities for OBD, I think, well, the owner could disengage the battery to clear the codes when he brings in the vehicle to have it checked, the algorithm could be ineffective as we've seen in the heavy duty world. And I'm sure there are many other defeat possibilities that

I just haven't been devious enough to uncover. So, I would lay several questions for you, the experts, in Smog Check, about whether it's appropriate to reconsider diesel's exclusion from Smog Check and to do some preliminary work, sort of evaluate what it would cost and whether it could be done simply, cheaply. With the new emission standards, one would hope that diesel will actually be achieving the sort of same range in NOx and not enough in hydrocarbon emissions that we would expect from gasoline vehicles, so there is a question about whether the test could be modified to incorporate diesel and how much it would cost to develop a particulate matter exhaust emissions test. I think that's not a minor exercise. And then the other question is, if it's too expensive to include emissions test for diesel, could the OBD system, could diesel still be included in Smog Check, but have a more thorough review of the OBD system to make sure that it's effectively monitoring what the on-road pollution is. Thank you.

CHAIR WEISSER: Thank you, very much, Patricia. A lot of information in a short period of time. I've been a frequent visitor to Europe and noticed over the last decade, even longer, the choice that European manufacturers and consumers have made in terms of light duty vehicle purchases sliding and now - initially skidding, but now sliding toward use of diesel engines and had many conversations with both

environmental ministries and nongovernmental organizations in Europe as to that choice, because you talk about diesel in this country and enviros want to pull their hair out and scream running down the streets for concerns associated with the toxics associated with diesel particulates. The reactions that I've gotten, or the responses that I've gotten, is that they are confident that over time the control technology to adequately contain the particulate problem will be achieved. They just see that as a technical hurdle and are willing to trade a period of time as that technology develops for the greenhouse gas savings. We're, I think, going to be facing a similar sort of challenge here in the United States because I agree with your assessment that, in fact, we will be seeing a substantial increase in the sale of diesel vehicles, light duty vehicles in this country. And I think this is the first presentation of this sort that we've had on the issues associated with diesel light duty fleet vehicles and I'm very much appreciative of it and want to thank you. Are there questions? Gideon?

MR. KRACOV: I guess that one of the suggestions then is that some kind of I/M program could be developed to check the traps for example or -

MS. MONAHAN: Yes, I think for public health concern, the trap is the number one issue that most folks are concerned about, the small easily respirable particles that can lodged deep

in your lungs and have a number of toxic chemicals absorbed to them. For those that don't know, diesel - California CARB estimates that diesel is responsible for 71 percent of the cancer risk from air toxics, so it's the dominant health care concern in a lot of communities in California. But, in terms of the technology, I mean, we know more about PM traps than we do about the upper NOx controls and so I'm thinking, I'm guessing, the NOx controls are actually going to fail at a higher rate than the PM controls.

MR. KRACOV: The next generation of diesel cars that are going to come on the market starting in 2007, the ultra-low sulfur, are those going to include traps or do we know?

MS. MONAHAN: Sure, they're supposed to. There's so much, you know, user control issues that are raised with SCR that aren't raised with the other technologies.

MR. KRACOV: And just one last question, and maybe, Vic, you might know this, too. As we're seeing the potential market increase for these kinds of cars, have these discussions as to where this fits in with the Smog Check program, and maybe there are other ways to deal with this hurdle of not being able to test these cars in the program, is this a discussion that's happening now at the regulatory level, or is this one of the first discussions we're gonna have on this?

CHAIR WEISSER: It's the first discussion we've had on it. We've talked about it with ARB in the past. The response in

the past has been such a minor portion of the fleet, it wasn't something they were focused on. In the conversations that I've had with ARB people more recently, it's certainly something that's coming up higher on their watch and worry list, but I couldn't tell you what specific actions ARB or BAR is taking to look into and prepare for this.

MR. KRACOV: Because I do know on at least the refining side, we're seeing a lot of activity on the South Coast on trying to get this new fuel out of our refineries, so I think it's coming on line.

CHAIR WEISSER: Yes, I agree. Mr. Pearman?

MEMBER PEARMAN: Well, maybe you asked my question, so at this point, it's not as if our state or ARB is looking to require certain emissions reductions or credits from the benefits of the improvements in the diesel technology in the near future at least. It's something we'd like to, it's a nice thing, but it's not like we have to have this reduction in 2009 for some SIP compliance or some other purpose at this point in time.

CHAIR WEISSER: You know, I really don't think - I can't answer that Robert. Is there someone here from ARB or elsewhere? Jude?

MEMBER LAMARE: I would just say that I think the issue here is being sure that light duty diesel vehicles can comply with California's emissions standards for light duty vehicles and

not that there's a particular benefit, but simply, can they comply. The benefit, as I see it, is in the climate change program and the targets for reducing greenhouse gas and complying with the regulation regarding reduction of greenhouse from new model vehicles. So, it's not a SIP commitment, but I think there's a policy driver there. Patricia, would you agree with that?

MS. MONAHAN: Yes.

CHAIR WEISSER: There's a real tough kind of trade off you have that the technology requires between PM and NOx and some of the hydrocarbons that contain PM and NOx. And there's, while no silver bullet, there are lots of little bullets that can bring this, you know the emissions characteristics down if the technologies can be developed and deployed that are rugged enough to withstand this sort of use that vehicles get. And it's not an easy challenge. In terms of where I think we are to respond to the earlier question, I think the policymakers at ARB and BAR, the research people and the policymakers need to step back and come forward with kind of a track for the development of a plan as to how you're going to oversee the introduction of a large segment of diesel vehicles into the light duty fleet. I'd love to get involved in a conversation with ARB and BAR on their thoughts associated with that. One of the things that we didn't hear anything about was the potential for remote

sensing as a device to track the operation of vehicles. Right now remote sensing isn't geared, the research has looked at it for NOx and for hydrocarbons, but not for particulate emission, but it would seem to me as a layman that particulate emissions would offer up a very, very tempting target for that sort of technology. And that may be perhaps a combination of onboard diagnostics, remote sensing and more traditional smog check sorts of approaches are what lie in store. Robert, do you have your - Jude, do you have something further?

MEMBER LAMARE: Jude Lamare. Yes, I guess what I'm hearing is that a light duty diesel vehicle could be checked with OBD to see if the particulate trap is working. If it is working then it could be subjected to a NOx tailpipe, similar to what light duty gasoline vehicles are going through. But, what I'm not hearing, and I thought that the environmental community was becoming somewhat concerned about, is exemption of new light duty diesel vehicles from Smog Check for the first six years and what I did hear you say that you were concerned about the durability and the performance of the emission controls on new light duty vehicles, so would you say that you're advocating that light duty diesel vehicles be subject to Smog Check with the first year, with the second year, third year, fourth year, have you got an opinion about that?

MS. MONAHAN: No, that's a very important point and one that I should have included in my presentation. I would say that we haven't done enough research into Smog Check and its - the cost that it would take to include diesel into the program. But we are very concerned about failure in the first several years that these vehicles and these technologies are being vetted. What we've seen historically, even with three-way catalysts, which are a relatively simple technology, that there were initially a lot more failures in the first several years and you see emissions spike in the first several years after new vehicles standards implementation, and so we expect that there will be an emission spike. We expect that there will be higher rates of failure. To go the next step and to say they should be addressed through Smog Check, I'm not ready to say.

CHAIR WEISSER: It's a complex question. I think you're hesitancy is warranted. You - there are benefits of diesel technology in terms of energy efficiency. Do you want to laden the introduction of a new technology with a burden that's not born by a competitor in terms of light duty gasoline.

MS. MONAHAN: Well, I would re-characterize that somewhat. I would say that there are various ways of evaluating in-use compliance. And there are ways that you could require, for

example, the manufacturer to bring in a certain number of vehicles and recheck them more frequently than they're being checked. And I think that the cost for developing a PM emissions test are significant. And so you'd have to do some kind of cost-effectiveness comparison of different strategies for assuring compliance. We're very concerned about compliance in the first several years. That said, I'm not sure what the best mechanism is for evaluating on-road compliance, but it is definitely worth exploring whether and how Smog check can evaluate compliance in the first several years.

CHAIR WEISSER: Okay. Jeffrey?

MEMBER WILLIAMS: Jeffrey Williams. Jude asked some of my questions, but I think we're talking here about slightly different things because of our Smog Check experience. You're talking about the first years that the technology is there, but we also are interested, at least with gasoline, our vehicles, it doesn't pay to check them the first few years because the equipment's still in good shape. Taxicabs being driven to death are an exception. And so there's an exemption, no cars tested for six years. If you had to guess once this technology is in place, we're talking about 2018 or something, a new 2018 light duty vehicle that's diesel when might it need to be tested; four years out, five years out, six years out? How long will that equipment very

likely be working or it starts to have catastrophic failure.

MS. MONAHAN: In general, with gasoline, we saw the first several years as the spike. And I'm a little hesitant to say and to project what it would be with diesel vehicles. Maybe I'm misinterpreting your question.

MEMBER LAMARE: There's a learning curve here.

MR. WILLIAMS: No, there's a learning curve on the new technology, but we've more or less got that going. Typically the technology lasts four years before it starts to have catastrophic failure, or is six years? That's not -

MS. MONAHAN: All I can say is that with the PM trap set, we've experienced failure. It's been pretty quick within the first year. With these new NOx technologies that are pretty sensitive to a lot of different conditions, I'm not sure when the learning curve.

CHAIR WEISSER: Yes, it's complex. So, have you had any conversations, I mean, what are the nature of the conversations you've had with ARB and BAR on just this subject?

MS. MONAHAN: We've had some preliminary conversations with ARB and the sense is that effective OBD is going to resolve a lot of the problems. That's not an answer that we're completely satisfied with.

CHAIR WEISSER: I'll not comment. I mean, OBD has been an interesting issue. I think we're all hopeful that it meets

the promise, but it hasn't been a smooth ride so far. Okay, I'm open for comments from the public on this. Sir?

MR. VAN HOUTTE: Mr. Chairman. My name is Jerden Van Houtte and I am a researcher at UC Davis and my research mostly focuses on emissions inspections of heavy duty diesels, but in that research I also notice a lot of stuff that's going in the light duty diesel. All of the light duty diesel inspections I'm aware of, first in Europe and in the Seattle area, they still use the opacity tests that you're probably familiar with. And you're probably familiar also with the shortcomings of the opacity test as far as being able to test down to the levels that currently being certified, or let alone, certified in 2007. One new trend in heavy duty diesel that might be able to come through to light duty is that in Australia, they're working on a test that's dynamometer based rather than the free acceleration that used in most American opacity tests. And they are also using a laser-based testing device that actually measures the particulates, rather than just the transparency. The only other comment I would like to make is to see how this ties in with our earlier discussion of Assembly Bill 1870 of visual smoke, which is obviously very nice to measure on diesel because that's what's actually being done on the heavy duty diesel. Thank you.

CHAIR WEISSER: Thank you. And your making reference to that

snap idle test for heavy duty diesel?

MR. VAN HOUTTE: Yes.

CHAIR WEISSER: Okay. Would you give the spelling of your name to our secretary so that we don't drive the transcriber nuts. Are there - yes, Dean?

MR. SAITO: Dean Saito, South Coast AQMD. Just a couple of comments on Patricia's presentation. I just wanted to make everybody aware that at the March Board hearing, ARB is going to be amending their verification for their particulate traps and they made a finding that a majority of the particulate trap manufacturers can't meet the 20 percent cap on NO2. And they're going to be relaxing that 30 percent until 2009, so that is an issue and I think it's a valid issue that we really need to stay on top of. The other issue I wanted to mention was, Chairman Weisser, you had talked about RSD for PM, for opacity. As part of AB1222 that was signed into law last year, we are going to be looking at remote sensing technology for PM for locomotive engines and so we are going to be doing that work and looking at remote sensing of PM emissions from locomotive engines in California. ARB will be conducting a pilot study in cooperation with South Coast and Sacramento Air districts and community groups to evaluate the feasibility of using that technology to measure emissions from locomotive emissions. And I also wanted to mention that in 2007, of

course for heavy duty trucks, the standards drops for NOx down to 1.2 and for PM to .01, so it becomes a very stringent PM cert level for new heavy duty truck engines come 2007 and I do think it's very critical in that we don't have an in-use test program for heavy duty trucks that somehow we talk about - start discussing about an inspection and maintenance program for heavy duty trucks, diesel, and making sure those standards are adhered to.

CHAIR WEISSER: Heavy duty inspection program beyond that what you get from the onboard diagnostic technology and what remote sensing might -

MR. SAITO: Well, of course. Onboard diagnostics for heavy truck doesn't start until 2010, so we still have a ways to go before OBD technology is applied on heavy duty engines.

CHAIR WEISSER: Yes, please, John.

MEMBER HISSERICH: John Hisserich. I'm sorry, the heavy duty vehicles now have a standard to meet, but there's no means to test?

MR. SAITO: They only have a cert standard. There's no end-use standards like there is -

MEMBER HISSERICH: So it's just that they - on the onset there's a certification that they attest to, if you will, but there's no subsequent periodic testing of that.

MR. SAITO: That is correct.

CHAIR WEISSER: I'm curious if there's anyone here from either

BAR or ARB that would like to offer comments on - I'm wondering if there is anything Members of this Committee think or believe that we should be doing right now in this regard. I'm wondering whether or not some sort of - you know, this seems to me to be an issue that needs to be elevated and made more public to stimulate the kind of analysis and research into what regulatory actions are really appropriate to be taking in regard to what we are facing. I don't know how the best way is to accomplish that and I guess I'm not going to suggest any right now, but I'd like Members of the Committee to be giving that some thought and we'll chat about that. Jude, I'd be interested in both what John and you have to say right now, but -

MEMBER LAMARE: Well, Jude Lamare, I think we could ask ARB to provide the Committee with copies of reports they made to their Board about diesel in-use testing, Smog Check for diesel vehicles, and any other staff reports that they may have about Smog Check for light duty diesel vehicles prospectively and get - right now we don't have a liaison to our Committee, but we certainly don't need to be shy about asking ARB to provide us with information.

CHAIR WEISSER: I think that's a good idea. I have something I'll add onto that. John?

MEMBER HISSERICH: Well, just in following up on that, in terms of the industry and the test industry, it would interesting

to understand beyond the opacity or including the opacity testing which the gentleman referred to and which we discussed earlier, presumably that would be a component. But from a technologic point of view are most the tests that are currently conducted on gasoline-powered vehicles things that would be adaptable for readings from diesel-powered vehicles or they would be all new? I mean, obviously, there's new programming and new standards from a computer point of view, but in terms of the instruments or the things that test and read, how much change would have to be employed to test for diesel over and above. I mean, opacity, as we've discussed, would you think it would take additional, actually new instruments and so on, so there would be some considerable cost for the testing.

CHAIR WEISSER: Well, here's what I'm going to suggest that we do. I like Jude's idea of requesting a letter - having a letter go over to ARB in requesting that information. But, I'd like to take it another step and I'd like the Committee to direct me to meet with Robert Sawyer, who's the new chair of the ARB and happens to be kind of an expert in this area and just have an informal discussion with him and report back to you whenever I can, assuming I can have that conversation within the next month. So, Rocky, if you could design a letter that I could send to Dr. Sawyer with a copy going to Katherine Witherspoon asking for this material and

also suggesting that as the chair of the IMRC, I'd like to sit down and discuss with him what ARB has in terms of gearing up to deal with this. I would invite BAR to want to sit in on that discussion, of course. All right, is that okay? You guys think you're going to lunch. We're going to have to let Dean cool his heals until after lunch. Okay, we'll take a full hour, so if you could - is that okay? Do you want to give some hints to people as to where to eat? Okay, 1:30, I've just been directed by my research assistant. Come back at 1:30. Do people have a good idea where they want to eat? I know there's places across the street and if you go straight down Hollis, past Ashby, there's an Italian restaurant called Milano's that we've gone to. Thank you. Nice job.

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CHAIR WEISSER: Okay, folks, if I could ask you to take your seats. Very good. We'll call the afternoon session in order. Buckey, is there anything you want to announce or do prior to us moving into our next agenda item, which is our presentation on the South Coast Air Quality Management District's Light Duty Vehicle Program? And is Dean here?

MR. SAITO: Right here.

CHAIR WEISSER: Dean is here. Okay, well, we're ready to start. We will have - at least one Member has to leave at 2:30. I don't know if anyone else has to leave. Okay, but you will

have a quorum and you have our wrapped attention. For those of you who didn't eat across the street, if we ever come back here and it's Tuesday, try the fried chicken. Outstanding, and lots of it. Dean?

MR. SAITO: Thank you, Chairman Weisser, and it's a pleasure to be back before the IMRC to talk about the South Coast Air Quality Management District's Light Duty Program. I think I'm going to start today by showing an interview on our local radio station down in Southern California regarding our Light Duty Program and then I'll get into more details about our program. So, with that, Rocky, if you -

"That's right. Air regulators have launched a high-tech effort to nail the dirtiest smog belching cars on the road. Rick Garcia has more. The next time you accelerate onto the freeway, someone may be watching your tailpipe. The Air Quality Management District will use remote sensors to measure the tailpipe emissions of one million vehicles on the fly. Then, AQMD will make a cash offer to the owners of the dirtiest 2,000 cars. Offered up to $500 for repairs so that it would pass Smog Check or $1,000 to have the vehicle scrapped. Here's how it works. Remote sensors will be place on undisclosed freeway onramps throughout Southern California. The sensors measure the exhaust of up to 3,000 cars an hour as they pass through ultraviolet and infrared light beams, all while a camera catches the license plates.

Then letters will be sent to the biggest polluters asking them to voluntarily fix or scrap the car and the operative word is, voluntary. They can weigh that against the almost certain (unclear) to get their Smog Checked, it's not going to pass. And most times smogging your car can be very expensive. So AQMD thinks its $10 million experiment will entice gross polluters to step up and clean up. Cash will be doubled for low income owners of polluting vehicles. The remote sensor may up and running by June."

CHAIR WEISSER: Did you write that for them, Dean?

MR. SAITO: No, I didn't. And I don't think Sam did either. I was impressed with the questions and presentation of it. All right, with that, I'm going to get into more detail now with regards to our Light Duty Program. And just by means of background, back in the late 2004, due the legislation signed by the Governor, AB923, it allowed the Air Districts to opt in to an additional $2 vehicle registration surcharge program to offer incentive based - to achieve incentive based emission reductions. And as part of the new AB923 program, our governing board, in February of 2005, adopted these various commitments in allocating funds based on AB923 and as you can see at the bottom there, it was $4 million for a light and medium duty program to target gross polluting vehicles. In the South Coast where basically we've done about all we can on stationary sources, our focus

now is on mobile sources and not only in all categories, off road, light duty and heavy duty, we are now concentrating our efforts in all mobile source areas. Just as means of outlining our Light Duty Program includes identifying gross polluters through remote sensing and then doing testing and repair by the foundation of California Community Colleges offering repair incentives up to $500 and offering vouchers for scrapping those vehicles and replacing those vehicles between $1,000 and $2,000. Basically, the $2,000 voucher will be awarded to low income eligible consumers who can document that they've replaced their car with a LEV or cleaner vehicle and they would be afforded a $2,000 voucher for that. This is a flow diagram of the program and, as you can see, the initial program will consist of remote sensing of light and medium duty vehicles, accessing their DMV records to ensure that the license plate matches the model of the vehicle, and then submitting all the RSV data to the foundation for purposes of following up with regards to their Smog Check history. We are only going to offer the program to those consumers who have had a history of Smog Check failures, at least one failed Smog Check, because we believe that is a critical incentive for the consumers to participate in the program. We're not offering any cash incentive per se, but we feel that if a consumer would have gone through a failed Smog Check, he or she would know the

value of up to $500 in repair to get that program to pass the Smog Check cut points. We plan to do - we're going to do ASM, load and mode testing on all vehicles, whether they're going to be scrapped or repaired, so there's going to be an initial test done for all vehicles and then at that point, the consumer would have an option of selecting either repairing the vehicle, retiring their vehicle, or if they're income eligible, to retire and replace that vehicle with a LEV or cleaner vehicle. This is strictly voluntary. We also are only going to offer the program to those vehicles that are off-cycle, meaning that they can't be within three months of their Smog Check commitment. Those vehicles we're going to refer to the Consumer Assistance Program run by BAR. This is going to be the set-up for the remote sensing instrumentation. The vendor will select a whole host of various sites that have to meet specific criteria. For the most part, this site criteria are going to be on freeway onramps. This is a schematic of the set-up and this is a little animation of the actual process. License plate reader will record the license plate, give us measurement of (unclear).

CHAIR WEISSER: Dean, how many passes -

MR. SAITO: Well, the contract with ESP is they anticipate their vehicles - this is the detail of the contract that we're going - that the Board approved awarding to ESP where their

proposal consists of measuring three million vehicles for one million unique records. They will have a license plate for all vehicles identified as a gross polluter. They're going to confirm with the DMV database and this data will be reported on a weekly basis to the foundation for purposes of sending out correspondence to invite consumers to participate in the program. It's critical that they report the data on a weekly basis because as we set up the appointments at the referee sites, we don't want to overload any of the referee sites during this 18-month period, so it's important that we stagger out this program throughout the 18-month period. And the Board did approve earlier this month the award to ESP out of Tucson, Arizona. As I indicated, the Board also approved the sole source award to the Foundation of California Community Colleges who currently run the referee program for the Smog Check program. They will receive the high emitter list from ESP and they will cross-reference that database with the BAR Smog Check records to identify those vehicles that have had at least one failed Smog Check and they will - once they identify those vehicles, they will also check whether or not those vehicles are either on cycle or off cycle and they will only include those vehicles that are off cycle to the Smog Check program. As I mentioned, the participation in this program is strictly voluntary. The foundation will be

doing a diagnostic evaluation on those vehicles where the consumer has indicated a willingness to repair their vehicles under the $500 cap. At that point, once the diagnosis is made, the consumer would have an option - if the diagnostic evaluation indicates that the repairs are gonna cost greater than $500, the consumer has an option of either scrapping his or her vehicle or, if the diagnostic cost is above the $500, we're still discussing this with the foundation, but we may allow the consumer to pay that incremental difference over what the diagnostic cost is and the $500. So, the consumer may offer to cost share for repairs.

MR. HISSERICH: This is John Hisserich. Are those repairs to be done at the schools by the foundation?

MR. SAITO: They're going to be done by ASM technicians hired by the foundation.

MR. HISSERICH: Do they do that at some advantageous cost, since it's done by the foundation, or is market rate cost of repair?

MR. SAITO: Well, it would be - the repair cost will be based on our contract with the Foundation of California Community Colleges. So, there will be a special allocation for the amount of repair time and the cost under our contract. I beg your pardon? These repairs will all be done by licensed ASM technicians, so if your question is will they be done by

students, I guess my response is that they'll all be done by certified ASM technicians for repairs.

MR. HISSERICH: I think what we're both asking in a sense is, are they going to be done by the college group, by the - whatever the acronym for that is, for the college foundation.

MR. SAITO: They'll be done by foundation employees.

MR. HISSERICH: I understand that.

MR. SAITO: Oh, okay.

CHAIR WEISSER: Physically, are they going to be done at a community college?

MR. SAITO: The repairs will be done at the referee sites.

CHAIR WEISSER: Which are at the community colleges.

MR. SAITO: That's correct.

MR. HISSERICH: And I guess with that, is that a good price structure? You say it's a contract price. I guess, my sense of it is if you send it out to some local mechanic, it may cost a lot more. It may be in this relatively confined situation, there's more bang for the $500.

MR. SAITO: And I think that definitely is the case. We do get more bang for the buck. And not only that, I think it's very critical because this is strictly a voluntary program that the consumers feel that they're going to not a government run station or not an industry run station, they're going to an education institution and so it's being

repaired at the referee sites that are located at the community colleges. Most definitely, we have an extensive database that's being developed for this program. It's close to $400,000 for the database that's being developed. And of course, for those vehicles where the consumer opts to scrap the vehicles, those vehicles would be referred from the Foundation of Community Colleges to the District for setting up an appointment with our contracts auto dismantler. Now I'm going to talk about some potential program components that we're currently working on to incorporate in the program. One is to coordinate with the Air Resources Board on a pilot study that they've initiated to look at PM emissions from light duty vehicles. They had issued a contract to UC Riverside under C-cert and we've been in discussions to incorporate this study as part of our pilot study to measure PM emissions from the program to see how the possibility of measuring before repairs and after repairs the PM measurements, so we're currently in discussions with ARB and C-cert on this element of the program. We've also considered including in this program our smoking vehicle database. The South Coast currently has a 1-800-CUT-SMOG number that receives annually 27,000 complaints a year on smoking vehicles and we are considering incorporating that - offering those consumers this program and looking at that data to see what kind of reductions we

can get from PM by incorporating that database into our program.

CHAIR WEISSER: Let me just interject, that's 27,000 individual cars or 27,000 complaints. Is it 26,000 from Gideon and 1,000 from the rest of the -

MR. SAITO: Vic, I asked that and I'm told those are 27,000 unique complaints of smoking vehicles a year.

MEMBER DECOTA: But they only ticket around -

MR. SAITO: I'm not familiar with -

CHAIR WEISSER: It's a very, very low number, Dennis.

MR. SAITO: Yes, it probably is very low.

CHAIR WEISSER: This program that you're looking at with potentially getting involved with ARB on PM, can you give us a timeframe for that yet?

MR. SAITO: One of our consultants, his name is Joe Calhoun, Joe used to be a former member of the Air Resources Board, he is going to be facilitating discussions between us, ARB and C-cert on this element of the program and I just got a message from him. He's got the task order to present to us and it's waiting when I return to my office tomorrow. I think the timeframe we're looking at is in the next couple of months to meet with ARB and C-cert and see how we can incorporate that element into our pilot program.

CHAIR WEISSER: Thank you.

MR. SAITO: Also, I might add that we've talked with ESP also

about doing PM remote sensing. We've had similar discussions with them on locomotive. They believe they can also do some portion of the PM remote sensing for the Light Duty Program. Another element that we're considering in our pilot program is doing low pressure evap testing on all the vehicles that participate in the program. And we will be working with CARB to ensure that those hydrocarbon reductions will be creditable to the SIP in order to develop cost-effectiveness for this program. We also plan to do both ASM tests and TSI tests for all vehicles because we believe an urbanized area like Southern California where there's a lot of congestion, we believe that we're going to find some vehicles that fail a TSI, but pass a load and mode and so we're interested in looking at evaluating that aspect of doing both TSI tests and a load and mode as part of this pilot study. I think that's an element we're going to look at, yes. The Board also approved awarding a sole source contract with Pick Your Parts, it's a licensed auto dismantler that has a facility in all four counties of the South Coast jurisdictional boundary. They've agreed to cost-share the program with the District in that basically they're going to pay us for every vehicle that they scrap and so besides giving the monetary award to the consumers, we're going to get reimbursed some amount from Pick Your Part as part of this program.

CHAIR WEISSER: Excuse me. So the parts of the vehicles that might be scrapped, you're going to retain those parts. You're not scrapping the parts, you're dismantling the cars.

MR. SAITO: That's correct. As basically to the extent that existing regulations allow us. And I know ARB is here to make sure we say that. This is the cost breakdown of the program and you can see for the gross polluter identification, we've set aside $1 million - for the testing and repair we set aside $1 million, and for the vehicle scrappage, we set aside $1 million. Because this is strictly a voluntary program, we've established a contingency fund of $1 million that can be appropriated based on the percent of consumers who opt to repair versus scrap.

CHAIR WEISSER: Do you have any sense of when cars might be repaired?

MR. SAITO: It's going to be in my last slide.

CHAIR WEISSER: Thank you.

MR. SAITO: Okay, the income eligibility, it's the same criteria that BAR currently uses for its Consumer Assistance Program. Even though we've been lobbied to modify that, right now we're planning to use the same criteria that's included in the BAR's Consumer Assistance Program. And this is the targeted goals for the program of - basically, what we were asked to do is to run a back of the envelope calculation to

ensure that we're going to come close to the cost effectiveness threshold established by the Moyer program of $14,300 a ton and basically taking the emissions data from a study that was done in South Coast by DRI, a remote sensing study, we estimated that if we were to be able to repair 650 vehicles and scrap up to 1,900 vehicles, we can achieve the threshold of $14,300 per ton and that is with the caveat that we're staying within all the conditions laid out by the state regarding the vehicle retirement in terms of limiting the credit period for three years and the repair basically being good for only one year. Those are the boundaries that had been established by the Air Resources Board in terms of creditable to the SIP. And so, these are the targeted goals that we would have to achieve in order to meet the - in our estimate, to meet the $14,300 per ton cost effectiveness threshold.

CHAIR WEISSER: Dean, on the calculation, you have a lot of costs going into this program that are one-time costs and initial set-up costs. Is that counted in the $14,000 or is this -

DEAN SAITO: It's counted. The big thing here is -

CHAIR WEISSER: Exactly, and that's just a cost with no benefit.

DEAN SAITO: Exactly.

CHAIR WEISSER: Could we go back to the low income slide, Rocky, if you will. $42,000 a year - not eligible?

DEAN SAITO: I know it's State law - well I shouldn't say State law, it's in the State's -

MEMBER HISSERICH: Dean the number of cars that you hope to scrap exceeds the amounts you've budgeted for it. Is that because you're going to get money back from the dismantler? At $1,000 a piece, 1,900 cars is $1.9 million and so on and I'm just trying to figure out -

MR. SAITO: Well, first we have to assume the least cost effective approach was if a majority of the vehicles scrapped are going to be low income eligible consumers where we would have to dish out up to $2,000. We assume that that's going to be maybe a third of the total vehicles scrapped, so with our $4 million budget, we can achieve those targets, but it had to assume a certain receiving $1,000.

MEMBER HISSERICH: You've only allocated a million, plus a million, it's not $4 million dollars. At $1,000 a piece, that's $1.9 million, 1,900 cars if my math - well, not even that. If you want to repair 500 cars - I think it was, I don't remember. The math in any way exceeded the million plus the million contingency, but you've said that the scrappage people are going to give you $8 or something?

MR. SAITO: No, they're only giving us $15 per vehicle, whereas BAR, BAR's scrappage program, in some cases, BAR is paying $45 a vehicle to be scrapped, so we felt fairly fortunate.

MEMBER HISSERICH: Well, you're ahead by $60 in some sense there.

MR. SAITO: That's right.

MEMBER HISSERICH: Well, it just seemed to me that more cars anticipated -

MR. SAITO: It is optimistic and a lot of it, to be honest with you, a lot of this - as Vic knows, a lot of this cost-effectiveness is going to be contingent upon our ability to measure PM reductions. Because the new Moyer program allows a multiplication factor for PM of 20, so if we're able to quantify PM benefits from this program, we feel much more confident we're going to be able to achieve the target of $14,300 per ton.

MS. LAMARE: So, just to summarize, 950 vehicles with $1,000 incentive to scrap for folks who are not in the income eligible category and 950 vehicles at $2,000 for those who are at the poverty level and then 650 times whatever it costs to repair up to $500 are the three elements of the -

MR. SAITO: That's the target. If we're able to quantify PM, of course, it could be a whole different combination of scenarios.

MALE: That exceeds the $2 million by quite a bit at that juncture. Four million, I think, at least in scrappage costs, because you've got $1.9 million for the 950 cars at $2,000 a piece, 950 cars at $1,000 a piece, and then

whatever 650 or 500 I haven't done yet, but it's probably $400,000, so you're pushing the envelope on the million.

CHAIR WEISSER: Well, that's an interesting question, Dean, I mean the numbers don't add up.

MR. SAITO: I'll have to go back and look at those numbers. Maybe the 1,900 vehicles was -

CHAIR WEISSER: Nine hundred.

MR. SAITO: Yes.

CHAIR WEISSER: Okay, so we know there's an issue there. Jeffrey?

MEMBER WILLIAMS: Are you asking some other facts and what I'm getting at, here's a great opportunity. You've got (unclear)

MR. SAITO: I think this program differs from the typical accelerated vehicle retirement program in that this program has actually captured a vehicle on the roadway as a gross polluter. The accelerated vehicle retirement program is only for those vehicles that have passed Smog Check and they weren't necessarily captured on the roadway, so I think there's a distinction between this program and the other vehicle retirement programs currently being implemented. So, we're actually capturing these vehicles on the roadway, whereas the other programs could be a car sitting in the backyard not in use and that would have to have had a passing Smog Check before it can be accepted as a creditable

SIP under the accelerated vehicle retirement program.

MALE: I'm wondering if you might ask on a one-page questionnaire - that's a reasonable assumption, how to prove it - a very simple questionnaire.

MR. SAITO: I think we're open to that as part - because it is strictly voluntary. So I think we're definitely open to that.

CHAIR WEISSER: That would be a really good idea.

MR. SAITO: Sure.

CHAIR WEISSER: It was so hard for us to get handles on consumer attitudes and behaviors, this is a great opportunity.

MEMBER DECOTA: It might be important that the Committee request in writing to Mr. Saito that that be looked at and also I would add in there the point that Mr. Williams made earlier with regards to - it had to do with testing the car without Fast Pass.

MEMBER WILLIAMS: You presume these cars are going to fail, but maybe they don't.

CHAIR WEISSER: Would that be helpful to you, Dean, if we wrote you a short note suggesting these things be incorporated into the program?

MR. SAITO: Sure, I'll make sure they get followed up on.

CHAIR WEISSER: Thank you. We'll ask our executive officer to do that. Jude?

MEMBER LAMARE: Jude Lamare. Just to return again to the

question of the numbers, because I think that if you look at the numbers for the light and medium duty program targeted goals, they add up to $3 million, so that means that taking the program costs plus the contingency fund, this is what the expectation is. I don't think the numbers are totally out of line with the budget because $1.9 million plus .9 plus .3 is 3.0.

MEMBER HISSERICH: But that's out of $4 million and when Dean broke it down, they had allocated $2 million of that for the contractual costs and so on, so the scrappage component of it is listed at $1 million on their budget, and I just don't see how -

MEMBER LAMARE: Yes, and there's a $1 million contingency fund.

MEMBER HISSERICH: Right, so that's $2 million.

CHAIR WEISSER: Well, let me interject here. Fortunately -

MEMBER LAMARE: I see your point. Okay, thank you.

CHAIR WEISSER: Where you overlay two different methods of laying out the budget and fortunately that's, in neither case, not our issue. Are there questions or comments? Is there anything you'd like to add before I go to the public, Dean?

MR. SAITO: Some final thoughts I've noted down here, a couple of things. I think it is critical that we're going to work with ESP in trying to identify where technology is for PM measurements using RSD technology and whether or not that

can be applied to light duty, because we definitely have interest in applying it to heavy duty. And so I know there's been a lot of concern raised recently about the contribution of light duty vehicles to fine particulate and also I wanted to make the IMRC aware that the District will be hosting an ultra fine particulate conference in, I believe it's May, and I've laid brochures out in the front table for that conference and it's going to be held at the Biltmore Hotel and it's going to be an international conference on ultra fine particulates and the concerns relative to ultra fine particles.

CHAIR WEISSER: Ultra fine particles being seen as the most dangerous of particles that are inhaled.

MR. SAITO: That's correct.

CHAIR WEISSER: They go - they lodge deepest into the lung and tissue. I noticed the schedule for implementation and I - do you have plans to have interim reports, Dean, on progress and issues that come up that will be publicly available?

MR. SAITO: It's been requested by ARB that we do this, so I anticipate that we will be doing interim reports. As you know, with the new Moyer program, ARB has indicated that they are going to be auditing frequently the program, so I anticipate that there will be intermittent reports.

CHAIR WEISSER: Well, I'd like you to keep the Committee abreast of how things are going. On behalf of the Committee, I just

want to just thank you for taking a lead role in getting this started and seeing that it's implemented as efficiently as it can be under the constraints that your operating under. And on behalf of my organization, I'm very, very anxious to see the results of very potentially important use of the technology, so I'm looking forward to hearing how this goes. We'll open up for public comments. We'll start this time from the left, Bud?

MR. RICE: Hello, Bud Rice, with Quality Tune-Up Shops. Three quick points, the first one, I've tried to come to almost every session you guys have had and somewhere I must have slipped a gear because there was some discussion about looking at this technology in El Monte and there was supposed some testing and some reporting about that. I don't recall there any being any kind of a report back as to whether or not it works and whether or not the technology is at the point where it's not 50 percent yes, 50 percent no, but it was some kind of an acceptable number. I just never heard that, that was my first point. My second point was -

CHAIR WEISSER: Well, let me interrupt you there. I don't know if anyone from ARB wants to comment but I know that ARB has a study going that should be pretty near done and that might be what you're referring to.

MR. RICE: Exactly, yes.

CHAIR WEISSER: Now, South Coast decided they wanted to push

forward prior to the results finally coming out.

MR. RICE: Okay, the second point was there was some discussion about licensed ASM technicians. I've never even heard that term before, to be honest with you. I mean, I know certified technicians, I know Smog Check technicians, test-and-repair technicians, I've never heard of a licensed ASM technician and whether or not there were any ASE overriding training involved in someone being a licensed ASM technician and whether or not there was going to be any BAR oversight of this program since there was actual repairs being done and whether or not BAR was involved in the oversight process of repairs being done on Smog Check vehicles, second point. And the third point was as I'm sitting here listening, I know that there was some tug of war going on between the Smog Check program and how it was being controlled by either the BAR or ARB, and I can kind of see where this might be a little incremental with the nose of the camel into the tent of a way to maybe start to wrestle some segments of the program out of BAR's hands and into a smog agency.

CHAIR WEISSER: I'm not going to touch the last part. I mean, you have realize the relationships between agencies at the State level, ARB, BAR, between the State and the local level, ARB and South Coast are interesting, we'll just call it, challenging at times. The second question, perhaps Dean might be able to respond to and that's the question

associated with the quote licensing or certification of the ASM techs or - okay, Dennis says he can do that. Dennis?

MEMBER DECOTA: I believe what you mean is that it's a licensed technician to perform Smog Check in an enhanced area?

CHAIR WEISSER: Is that responsive, Bud?

MR. RICE: Yes.

CHAIR WEISSER: Okay, next question.

MR. PETERS: Mr. Chairman, Committee, my name is Charlie Peters, Clean Air Performance Professionals, Coalition of Motorists. Interesting, I believe the laws in California indicate that the Air Districts regulate stationary sources and the motorists are spending many, many millions of dollars collected at the Department of Motor Vehicles giving nice folks like South Coast money to spend, which they spend significantly on lobbyists. Calhoun used to represent a little company called General Motors, who's the people who made the scrappage proposal in '92 as how to help turn over the fleet so they can make some money, I guess they are a little short of money these days, when the statutes of the State of California require the Bureau of Automotive Repair to be in charge of policy on Smog Check. Clear back in '93, there was an agreement to start a pilot study of approved oversight. We believe would at least double the effectiveness of the program at no cost to the consumer and so a little support for the agency statutes require to be in

charge of this program by this Committee might create a very significant benefit to the public rather than a corporate welfare program that's probably not even maybe even legal. So, I would petition this Committee to give really careful consideration of providing some support rather than abuse of the Bureau of Automotive Repair to better manage this program, better serve the public and start being much more effective at preventing pollution in the State of California rather than supporting lobbyist-promoted corporate welfare collected from the motorists in a possibly illegal program. Thank you.

CHAIR WEISSER: Are there any other comments? Okay, with that we can move onto our next piece of business. There's one thing I guess I will add and that is to thank the folks from the Community College Foundation for their intensive work in supporting this effort. I think it's a terrific combination of resources and I'm anxious to see it work well. Okay, next. Rocky, what do you think we should do next? We have down the draft IMRC report, but should we chat at all about the research?

- o0o -

MR. CARLISLE: Well, yes. I was going to go back over a couple of items we skipped over earlier.

CHAIR WEISSER: Very good.

MR. CARLISLE: Just briefly, but I wanted to point out on Tab 6,

we have the comments from the various entities, Committee Members, and the public at large that made comments with regard to the Sierra work plan. Sierra Research work plan. Also, under Tab 7, there's correspondence from the Bureau of Automotive Repair where they did respond to some of our questions. They had mentioned at the last meeting that a written response would be forthcoming and here we have it. There's also -

CHAIR WEISSER: Hold on a second. It's Tab 7 what he's referring to. And the question regarding - when we asked BAR whether they could discuss with us in writing their decision on should the Department be adjusting their repair cost waiver, they basically, I don't know how to say this gently, are blowing us off by saying we don't have the resources to do that, we've given it some thought, but we don't have the resources to do an analysis or a study. Am I reading that wrong? I hope I am.

MR. CARLISLE: Well, it's based on their involvement with NGET, the Next Generation ET. Once that's implemented, I understand it's slated for some time in March, it's my understanding in talking with various people there that their workload will be eased a little bit because that will be a huge burden off their shoulders. But, I don't work there, so maybe I'm speaking out of school.

CHAIR WEISSER: Well, I don't know. Is there anyone here

working for BAR that would chat with me - chat with us about this? I'll be gentle.

MR. GUNN: Marty Gunn with the Bureau of Automotive Repair. I think the request from the Committee was to do a study and there were many components to the study relative to adjusting the repair cost waiver. And the Bureau took a look at the components the Committee was asking for and determined they didn't have the resources to tackle that project at this time.

CHAIR WEISSER: You know, I think what we asked for was kind of an issue paper or an analysis of your thinking on - the Bureau's thinking on should the repair cost waiver be adjusted. Your position was stated, well, you know, it's only a handful of cars, 1,200 or 1,500 cars. It's just not worth adjusting because there's just so few cars that actually end up going to the referee station. My instinct is that it's a lot larger number that are influenced by a - lot larger number of vehicles get influenced that the 1,200 referee reports for the waiver. Maybe I'm misunderstanding the program. I wasn't looking for some sort of big study. I was just looking to get a better understanding of your thinking. Frankly, to try to understand why a simple action, you know, basically putting a pen to a paper and adjusting it by CPI, which isn't taken. I just don't get it. I'm mystified by this.

MR. GUNN: I would urge the Committee to go back and look at what they requested for in terms of the components. Part of it was actually visiting referee stations to take a look at paperwork for individual cars for a large group.

CHAIR WEISSER: Really? Well then, if that's the case, I can understand the workload item and I will - if I had a Tivo in my mouth I'd reverse it, I'd rewind it, but I will do precisely what you asked and ask to chat with Rocky something following the meeting. And I think what would be helpful to me and I'll ask the other Committee Members, is really just getting - to get a better understanding of the policy position of the Bureau on this and getting it in writing would be helpful. Why, because if it's based on gee, we just don't think it has that much impact, my sense is, well, it's just not going to have that much cost to it either and my leaning would be to do it. Maybe what we need to do, if we have a policy disagreement is ask the policymakers of the State to take a peek at this. I don't know. Rocky, did you have something that you wanted to add?

MR. CARLISLE: Not to that item, no.

CHAIR WEISSER: And Jude?

MEMBER LAMARE: Jude Lamare. I guess I would state it this way. Given the fact that the California Air Resources Board has said that they favor increasing the cost limit because it would lead to more repairs and therefore cleaner air and the

law requires that the Bureau update the cost waiver to CPI. What is the Bureau's objection to updating the waiver to reflect CPI?

MR. GUNN: We'll take that question and we'll compose it and bring it back.

CHAIR WEISSER: I think that's an outstanding - that's a good idea. Let us translate that into a question and I don't mean to put you on the spot. I apologize for that. This is one of those things that happens at times. I just don't get it and you probably, you meaning the Bureau, don't get why I care. People can have those sorts of things. What I'm trying to do is, okay, let's put down why do we think it makes sense to increase it and you put down on a piece of paper why it doesn't make sense and let's see which looks more rational. Can you prepare a letter on that?

MR. CARLISLE: I will, yes.

CHAIR WEISSER: Mr. DeCota?

MEMBER DECOTA: It might be an interesting point in time to, since there's only what, 400 Gold Shield stations, Rocky, 500, is to send a one-page questionnaire to the shop owners and ask them if they feel that there should be an increase in the cost-of-living index to cover the cost of repairs and you might ask a question are repairs, you know, something to give us input that if we want to make a point of this issue that we have something -

CHAIR WEISSER: Let's think about that.
MEMBER DECOTA: All right. All I'm saying is may be helpful.
CHAIR WEISSER: I think it's an interesting idea, but are we going to get data that is going to useful by doing that sort of a survey. It sounds like we'd mostly get somebody's estimate based upon their experience. I'm just not sure how we'd measure that.
MEMBER DECOTA: I just hear a lot of industry, Gold Shield stations telling me if they could have $150 more they could have made a long lasting repair out of it.
CHAIR WEISSER: They wouldn't have stuck on some after-market catalyst that's going to burn out two months after it passes.
MEMBER DECOTA: Exactly. And that's my point here, is maybe you want to hear that, maybe you need to hear that, sir.
MR. GUNN: One thing I think is important to realize is that California has a cost-minimum, so it's not a cost-maximum. You have to spend at least $450. So if it's a difference between two quality parts, very likely you're not going to be eligible for that waiver depending on what the policy of the shop is in terms of what types of parts they sell. It's the shop's decision whether to sell a $100 catalyst or a $200 catalyst. So, if it's the shop's policy to sell a $100 catalyst, that's the shop's policy.
MR. KELLER: Marty Keller, Automotive Repair Coalition. Dennis

is onto something you might want to consider because the Bureau also has the data in terms of all the failed vehicles whose repairs they've approved under CAP and you could do a comparison of those repairs that were done to a passing cut point versus those repairs that were done to the maximum possible spec, and then you could really get some cost information because they're repairing it only to a certain amount of money that's being expended by the State. So, you could - if you were to do a survey, you could actually compare their responses to what the BAR data tell you about what they've approved for expenditures and what repairs were actually done and what reductions are gotten by those repairs.

MR. CARLISLE: That sounds like a data request.

CHAIR WEISSER: Did I get it?

MR. CARLISLE: It's on it's way.

CHAIR WEISSER: And I notice on the second response to the inquiry, a good rundown of the timing and I see it's moving and I'm very glad you're collecting roadside - and I'm glad that we resolved any issues associated with the data and if there's anything that you need in terms of the establishment of a written Committee policy associated with that, would you let us know? We'll do whatever is required to meet whatever needs you might have.

MR. CARLISLE: I did respond to the legal letter and I told both

DCA and BAR that we would continue, not only that we would, but we'd continue to comply with the information practices that are set forth in the Civil Code.

CHAIR WEISSER: But there may be - sometimes organizations require that another organization that's receiving sensitive data have some sort of written policy associated, and if you need that, just write it for us so we don't have to develop it ourselves. Rocky?

MR. CARLISLE: Okay, under Item 8, there's three letters, one I wrote to Chief Ross with regard to giving him a little more detail in what we want to do with the vehicle identification information. I also mentioned the Horton letter. On February 2nd, I wrote another one. I kind of outlined what, in my opinion, were the issues within the Horton letter. And these are just for your information. And last but not least was the one written to Ms. Stephanie Kimball, the legislative director at the office Assembly Woman Shirley Horton.

CHAIR WEISSER: Very good.

MR. CARLISLE: So what I might suggest, if we skip to the Sierra Research comments, if anybody's had an opportunity to look at those, this is under Tab 2.

CHAIR WEISSER: Under Tab 6?

MR. CARLISLE: It's under Tab 2 and then under Sierra Research. The one's on six were the ones from everyone else. These

are the ones that Steve and I came up with as suggestions to come to the Committee.

CHAIR WEISSER: I haven't seen this one. Can you give us just a minute? Do you want to walk us through?

MR. CARLISLE: Sure. One is registration issues. The question is should we ask for an analysis of the IRP vehicles. This has been a topic of discussion for some time and while there's 1.6 million currently registered IRP vehicles in the state, not that many are gasoline, but there's about 10 percent.

MR. DECOTA: We need help.

CHAIR WEISSER: Okay, what's an IRP vehicle?

MR. CARLISLE: International Registration Plan. Those are the vehicles that are registered, actually owned by a company in another state. They just drive a portion of their time in California.

CHAIR WEISSER: Thank you.

MEMBER DECOTA: Rental trucks.

MR. CARLISLE: Exactly.

MEMBER DECOTA: Okay.

MR. CARLISLE: We could possibly use roadside data to identify how dirty they are, see if there's a real issue. We've also identified possibly 1.3 percent of vehicles which are correctly registered, they've got their tags and everything, but they failed their last Smog Check and we're not quite

sure how that happens. And that may be a bigger issue than the program avoidance. These are vehicles that are subject to I/M, failed the Smog, got a tag -

CHAIR WEISSER: And somehow they -

MR. CARLISLE: Right.

CHAIR WEISSER: Now, could these be vehicles that failed Smog Check, but were given a waiver, you know, the two-year waiver?

MR. CARLISLE: Well, the two-year waiver would show up as a smog cert.

CHAIR WEISSER: But these are absent smog certs.

MR. CARLISLE: Correct.

CHAIR WEISSER: Wow.

MR. CARLISLE: But this goes back to the program avoidance that Steve was going to talk about in a little bit, but I thought we could go through these first and just see if the Committee agreed.

CHAIR WEISSER: Yes.

MR. CARLISLE: Item 2 is TSI tests. If we look at our tables, require load and mode and technicians disagree. They have the option, basically, to override that if it's got, for example, disengagable traction control, if it's all-wheel drive. Sometimes the vehicle look-up table will say one thing and the vehicle that the technician is looking at will say something else. But the technician can override that,

so we thought maybe there would be a need to look at that, actually have some of those vehicles that have been overridden go to the referee, and if they have incorrectly entered it, make a permanent correction to the vehicle look-up. Also, comment three is about aborted tests. It's technically illegal to abort the test and what happens a lot of times, if it doesn't pass fast, doesn't say complete in 30 seconds in mode one and then again in mode two, some technicians will just arbitrarily abort the test for fear that it is going to fail. Or, worse yet, go as a gross polluter. And so the idea that we came up with is possibly turn off the fast pass. Jude had mentioned this a number of times, turning it off for maybe a week or a day. Jeffrey had mentioned it as well. And when we were kicking this around, we came up with the idea of turning it off at random and let's say, for example, Jude's car goes in and they turn off the fast pass and it fails. The fast pass would stay off until that completed that sequence. And so if you had 10 percent of the fleet, that would be more than enough data to do a real analysis and not only that, it would follow that car through the process, so there would be consistency. In other words, it wouldn't fast pass at one shop or fast fail, if you will, and then go to another shop and maybe fast pass, be more consistent. It wouldn't overload any one station at any one time. If you look at the average number

of tests done by stations, it would probably be on the average of one a week for test-and-repair and maybe two or three a week for test-only. So that was the idea there. We also discussed F-probs, the probabilities of failure and compare to station types. Maybe identify the best and the worst stations in each type. And these are just questions we through out really for discussion. We looked at repair issues, how do repair costs correlate with future pass-fail rates and emissions performance. We always talk about how do you reward somebody that does a better job versus a guy that doesn't do a good job. We came up repair champions and repair dogs, take your pick. And what are the differences between the best and worst in terms of average repair costs. Item 6, I didn't bring the spreadsheet with me, but it was similar to Item 5, so we just left that as is. The other issue was cheating with regard to OBD II. There is a technology out there where you can clean scan an OBD II equipped vehicle. If you have the right piece of equipment, which is available for - anywhere from three to four thousand dollars and it essentially replicates any vehicle you want it to replicate. What it doesn't have, however, starting in 2005, the ARB does request or require that the vehicle identification number be burned in the computer and as a result it would prohibit them from doing it on 2005 and newer, but not 2004. And we were wondering about OBD II as

well. Should there be some task addressed to that, maybe identify likely costs, take test time into account. We've identified that pretty much, it's basically a 6-minute test from the time the consumer gets out of the car until the time they can leave. The technical expertise the technician has to have is the ability to plug in a connector, locate the connector, number one, and plug it in, number two. It doesn't require any visual, functional, or any other inspection. It doesn't require a tailpipe if we went OBD II only.

CHAIR WEISSER: What would you get out of that?

MR. CARLISLE: Just to finalize what the cost impacts are as far as to the, you know, you're going to have a cost or income loss to test-and-repair stations, test-only stations, because it only takes that one person to drop the cost once they find out it's a five-minute test, there will be a reduction in price. Maybe look at the percentage of vehicles that would be OBD II testable through 2030. Again, the idea was to be a little more proactive in looking down the road a bit instead of in front of our nose. Item 10 was enforcement analysis, what stations are BAR targeting, how are they targeting them and is there a ratio of enforcement time and effort that is devoted to stations with the average of better performance standard. If a station does a beautiful job, is there a lot time spent on looking at that

guy, I don't know. Also, an economic analysis, and we've actually requested information from Dr. Williams on this. We want to look at how many stations are breaking even or losing money based on some parameters, so we're looking at the number of tests per station and we sent over a suggested table to Dr. Williams.

CHAIR WEISSER: Why are we interested in this?

MR. CARLISLE: For a future program. If you're going to recommend to the legislature this should be changed or that should be changed, it would be nice to know how that's going to impact them because you can anticipate any objection. And again, based on the fact that they're already looking at this data, how big a deal is it to do it now. I don't know the answer to that question, but we're just throwing it out there for your consumption. The other thing is what's wrong with the basic area program. Sierra doesn't think much about it, we're not quite sure why because as I recall, Steve help me out here, didn't that get a failing grade? Yes, it got a failing grade in their most recent state comparison and -

MEMBER DECOTA: Basic -

MR. CARLISLE: The basic area fail.

CHAIR WEISSER: A failing grade meaning it doesn't do much in terms of cleaning the air?

MR. CARLISLE: That's what I would assume.

MEMBER DECOTA: So what you're looking for is maybe something to recommend a statewide program.

MR. CARLISLE: Exactly.

MEMBER DECOTA: Okay.

MR. CARLISLE: And, finally, does it still make sense to maintain a program in a change of ownership area and what are the alternatives. If the change of ownership areas, we took away the change of ownership for the first four model years, there is certain parts of the state that they may not be feasible to buy a new piece of equipment the next time this program changes. So, would you still want to maintain that program and what would be the impact. You have areas where you have one station within a 50-mile radius, and if they're barely making it, what's going to happen with a new program? Are they going to continue to purchase the equipment and contracts to maintain the equipment, that kind of thing. These were just some ideas for your consumption.

CHAIR WEISSER: So, are you now asking us to go through this to identify which ones of these we want you to pass onto Sylvia or to Sylvia's replacement, I should say.

MR. CARLISLE: I would say we don't have enough time really to look at them. I would say we take this back and pass them on in a week or so. If we can get a consensus from the Committee that maybe we give the authority to another subcommittee.

MEMBER LAMARE: Mr. Chairman, the ARB and BAR ask for feedback on their research plan from IMRC and some individual members of IMRC have provided their individual feedback and as I see it, this is the feedback from the staff of the IMRC and I don't really see why we need to embrace or pick and choose what the staff's feedback is. It's the staff thoughts upon reading the ARB/BAR research matrix.

CHAIR WEISSER: Jude, I admire your duck-and-weave and embrace it. You can put forward anything you'd like as the staff of the IMRC.

MR. CARLISLE: Okay, consider it done.

CHAIR WEISSER: There are some things in here, we're asking, there are a lot of suggestions here.

MR. CARLISLE: Yes, no argument. Okay, then if we could go -

CHAIR WEISSER: Excuse me, Mr. Pearman?

MEMBER PEARMAN: I don't know if you want to go this, but in Section 6, we also had comments to the report and questions. Can I ask a question about those now? The comments from members of the Automotive Service Councils of California signed by Shelly Nilder, that's not how she signs.

CHAIR WEISSER: It's Shelly Nolder. Sorry, best wishes to Shelly.

MEMBER PEARMAN: Down in question five, I had a couple of questions. Maybe if you understood what they were getting at you could help me. The first thing they mention in A is

about the DMV handing out 90-passes for smog problems, some as good as six months. The point you had raised about why 1.31 percent failed but had correct registrations. Could that be tied to this situation? Would that show up as a correct registration, but a smog failure?

MR. CARLISLE: No, it would not.

MEMBER PEARMAN: Okay.

MR. CARLISLE: It would show up as fees paid and RDF in one table, but it wouldn't show as current registration.

MEMBER PEARMAN: Okay, and this issue about no penalty for noncompliance Smog Check, I kind of think that's a good idea to look at. If you get stopped, CHP, locals, anything, if they have a way to find that you weren't compiling, the notion there's other penalty, no citation, maybe correct it in 60 days you get it removed type thing seems - I kind of echo that as additional teeth to the program. It wouldn't be burdensome or hard to do.

CHAIR WEISSER: Is that an issue of research or policy call? Isn't it research?

MR. PEARMAN: Well, my question would be just to confirm that in fact who would readily access that information so they would know. I'm not going to assume that she's right, but if in fact local police, CHP, whoever, could tell that and if it's easy enough to find out then. Then under C, the reference to other agencies effected by Smog Check laws, are they just

talking about DMV and CHP or exactly what's that referring to?

MR. CARLISLE: I'm assuming that's DMV.

MR. PEARMAN: Okay.

MR. CARLISLE: But, back to B, there currently is no other penalty. The only penalty is for failing to register the vehicle and the vehicle registration is the tool, if you will, they use to force compliance.

MR. PEARMAN: And as you point out in your registration issues, it's - some things are still falling between the cracks.

MR. CARLISLE: Yes.

MR. PEARMAN: So, looking at that factually and it seems you're implying it might need some legal change, too, at least should be looked at.

MR. CARLISLE: Right. And there's some states that do have a penalty for failing to comply with the Smog Check laws, but we weren't able to get any data on that. I think Texas had as high as $300, something like that.

CHAIR WEISSER: So, in other words, in Texas, if you fail to register your car and fail to get a Smog Check, you pay a penalty for registration and you pay a penalty for failing to get Smog Check?

MR. CARLISLE: Correct.

CHAIR WEISSER: They have a safety test in Texas you're saying? You know, I wonder if - something for the future, it

wouldn’t pay for us to have a little session sometime with DMV just to talk about program issues, come up with a list of issues associated with DMV ranging from the notices that are included in renewals to this phantom registration issue to what we just pointed out here and I wonder if it wouldn’t be a good idea at some point in time in the future to have a session with the CHP, with whoever in the CHP is dealing with this issue, the Smog Check issue, registration issues, vehicle safety issues. I’d particularly want to sit in on a discussion with someone in the CHP on vehicle safety inspection, so - in fact, Rocky, I’m going to ask you to do some research and find out if there’s someone in the CHP who would like to sit down with you and I on vehicle safety issues. Marty, do you have something?

MR. KELLER: Marty Keller. When you’re dealing with DMV, also bring up the issue on enforcement on used car lots because there’s been a jurisdictional issue between BAR and DMV and that’s where a lot of clean piping originates.

CHAIR WEISSER: Someone braver than I can meet with DMV. Okay. Let’s have some decorum. Please continue, Rocky. Is there anything further?

MR. CARLISLE: Any more questions?

CHAIR WEISSER: Any other questions or comments from Members?

MEMBER NICKEY: I have one.

CHAIR WEISSER: Please.

MEMBER. NICKEY: (unclear).

MR. CARLISLE: No, I understand that. But the majority of cost in most businesses is labor. If you have a labor force that changes, then that's going to reduce your costs. I'm saying those are the potentials, yes. I'm just trying to put out there what technology is pretty much dictating. I would go back to 1997 when the issue was we had a $20 test and it went up to a $70 test based on new technology, a more expensive piece of equipment. So, if all of a sudden you go from a $50,000 piece of equipment to a $3,000 piece of equipment, to me it would go the other way as well. Well, again, it's like a computer you bought in 1990 is no longer used, right? It's somewhere in the dump. But that's neither here nor there. That's the best analogy I can give. Technology is changing.

CHAIR WEISSER: this is an issue, I think, what I'm hearing Rocky say is raising an issue. What's the program going to look like, what are the implications of the program? You have in terms of the cost side of setting a price on a product or service, a combination of fixed costs and variable costs like labor, fixed costs like amortizing the machinery that's involved and then there are several other cost categories that go into it. It's not something to be looked at or approached casually. You need to think through what are the possibilities in terms of future direction for

the program and then be able to discuss in a civil fashion what does that mean, what are the implications of that, because I think there are potentially very serious implications for the industry and in fact for BAR, depending upon how this technology develops.

MR. CARLISLE: Well, that is my point because like I've mentioned a while back, I don't want to see anybody get caught out in the cold four years from now if this comes down from the legislature that this is going to be the new test. People have to make some kind of business decisions.

CHAIR WEISSER: If this comes down, I'm not sure I -

MR. CARLISLE: If a new law is passed where OBD II is it -

CHAIR WEISSER: Oh, they say from now on, just like they wiped out the first five or six years of testing a car, you're saying you're concerned about that same sort of approach being taken to eliminate use of ASM or whatever.

MR. CARLISLE: Exactly, with no forethought on the part of industry.

CHAIR WEISSER: Roger, do you get a better sense of what he's -

MEMBER NICKEY: Well, yes I do, but there are some things - what do I do, go to my landlord and say, well, gee, they cut the program back so now I have to have rent cut back?

CHAIR WEISSER: No, classically the response to that is you get your butt kicked out in the street.

MEMBER NICKEY: Yes.

CHAIR WEISSER: I mean, that's how this country operates.
MEMBER NICKEY: Then the answer to that one is usually we'll diversify and go into some else. Most of us in test-only can't do that because we're in facilities that we can't.
CHAIR WEISSER: Right. Well, you have to be - you're like everyone else in our sort of economy. You have to make judgments and decisions on investment and what I'm hearing Rocky say, and I guess I want to urge you to be very careful in how you characterize this, Rocky, because I think you can be sending inadvertently, signals out to people that you don't intend, is that what you're looking at what are the what-ifs sort of scenarios. You are not recommending anything. You're just saying, here are different ways that could things could go in terms of the approach government takes toward the testing of vehicles. Is that accurate?
MR. CARLISLE: Exactly.
CHAIR WEISSER: And you have, insofar as I'm aware, no inside track on the what-ifs that are out there.
MR. CARLISLE: None at all.
CHAIR WEISSER: So, what I guess is the first step, if you want to pursue that, that you should come up with a couple of scenarios and solicit some ideas of scenarios from the Committee and then let's have a discussion on them. But I really caution you to be cautious in our use of words on this. I don't want to send any messages that could be -

MR. CARLISLE: No, I agree. And I've just based some of it on what other states are doing as well.
CHAIR WEISSER: Yes. I don't think you have to be Milton Friedman to look at technology that's being built into the automobiles, evaluate its capability and failings and then look and see what the implications are for the industry, test-and-repair and test-only. I don't know how you evaluate it and how you weigh this stuff, but any business person ought to be doing that sort of thing. Steve?
MR. GOULD: When we put together our list of things for Sierra to do -
CHAIR WEISSER: Could you identify yourself?
MR. GOULD: Steve Gould.
CHAIR WEISSER: Thank you, Steve.
MR. GOULD: - one of the things that we put on the list and I could see you weren't quite understanding it was an economic analysis of the industry and that's precisely what we were -
CHAIR WEISSER: Very good. No, I didn't understand that.
MR. GOULD: We have people come in and talk about their own station and their own experience in declining volume and so forth and so on, and yet we don't have any systematic body of facts that tells us about the whole industry and we need that kind of study ongoing for several years just to understand what's happened as a result of prior legislation and what might happen in terms of any technological changes

in the program. We need that solid grounding to understand what's happening to your station and to others. And we need a business analysis as well.

CHAIR WEISSER: Does BAR do any sort of analysis of the industry?

MR. GOULD: No, unless they've started doing it since I've left.

CHAIR WEISSER: Jude?

MEMBER LAMARE: Well, one of the what-ifs might be something that's been stimulated by things I've heard here today and in prior meetings on OBD that a certain percentage of OBD II vehicles would have to go through a regular full Smog Check randomly selected percent to verify that indeed the OBD system is working. I don't think we should be thinking in terms of, okay, we've got two worlds and the OBD world is one world and where we've been is another world. I think we ought to be looking at how can one be a check on the other.

CHAIR WEISSER: Bruce?

MEMBER HOTCHKISS: Yes, I think if anything, Rocky understated as far as doing diagnosis while you drive - conceivable that in the future Smog Check will be done - government could easily have access to that information. Technology is on the march whether we want it to be or not.

CHAIR WEISSER: Technology and market of the automobiles is changing and once again, in trips I've taken overseas and meetings with car companies here, there's a lot of

consideration of really fundamentally changing the role of car manufacturers from selling cars to essentially leasing transportation services where they - you get a car, but you're fundamentally - it's General Motors' car and they want communication from that vehicle back and forth to them telling them when they need to get it fixed and all that stuff. You're buying the transportation service, not a particular vehicle. I'll stop, but there's a bunch of other things. If you look at the GM fuel cell vehicle, that's a car that's overlaid on a platform. The fear or your fantasy at some point in time is you have this platform where you can put on and off different car bodies and it's very - it's component by component kind of approach. So, I think we are going to be seeing significant changes. Now, the issue is structuring the questions so that they're really relevant to our role. How do we make the Smog Check program efficient, effective, equitable, fair to industry participants. So, I would urge you to put parameters around the sorts of questions that you ask. I'll leave it like that. I'm just a little worried sometimes. You kind of freak people out, Rocky.

MR. CARLISLE: No, I understand. But I was going to mention, too, that for over four years, ARB and BAR have had a Smog Check program going on that doesn't even require Smog Check because it's all done with communications. A connector is

put in the OBD II connector and it sends the information to a database and they've had people that were exempt from the Smog Check until December of '05 and that's been going on, I think it was started in '01.

CHAIR WEISSER: I remember when that started.

MR. CARLISLE: Right.

CHAIR WEISSER: And I do think the future is wedded to communications technologies and onboard diagnostics and remote sensing. I don't see the traditional Smog Check businesses vaporizing, but I do think they're going to be facing increasing competition - that's almost the wrong word. There's a shrinking - I'm concerned about that and I would be concerned about that if I were the owner or investor. There are people who are waiving their hands wanting to make comments and I think on this issue right now I want to hear what they have to say. We'll start with Mr. Peters. Okay, the speakers can't see it. When you reach, I can see it.

FEMALE: Okay.

CHAIR WEISSER: What I'll do is waive strangely to let you know your time is about up.

MR. PETERS: Yes, Mr. Chairman and Committee. My name is Charlie Peters, Clean Air Performance Professionals. I think the advice that I just heard as to what can happen to the program and how that might work, I think (unclear) based

on history and his other jobs that he does. Just to comment about the issue you brought up concerning vehicles that are here as out-of-state plated, mainly rental vehicles, number of vehicles there, Mr. Chairman, ten percent, a memorandum of the Air Resources Board of August 28, 2003, indicates that first of all in order for those vehicles to be eligible for that, you have to go out of state once a year on a trip. Did anybody determine if any of those cars ever go out of state to make them eligible for that program? The answer is probably no. It indicates that U-Haul has 64,000 gasoline vehicles, 28,000 diesels, ten percent. Interesting information provided to the Committee that at least in U-Haul's case probably doesn't apply and none of those vehicles may be eligible for that program at all since it is necessary for each one of those vehicles to go out of the state of California once a year in order to be eligible for it at all.

CHAIR WEISSER: Mr. Peters, is this something perhaps you might want to suggest to the research program? Are there specific recommendations that you'd want to suggest to ARB in terms of the Sierra contract?

MR. PETERS: I have provided to you, Mr. Chairman, and Committee a list of things that I think is appropriate for the Committee to consider and everyone of the those issues, in my opinion, should be part of the Sierra Research study and

the Committee has just disregarded the majority of those issues and so, yes, absolutely, the list that I provided many times to the Committee with specific things to look at which includes certainly those in evaluation of what's going on in these out-of-state plated California operated vehicles, which may not be in compliance or need any compliance or be lots of low hanging fruit opportunities to improve the program.

CHAIR WEISSER: Thank you, Mr. Peters. Mr. Ward?

MR. WARD: Chair and Members, Randall Ward, California Emission Testing Industries Association, and I certainly agree with you that we all have to look at the globalization of technologies that relate specifically to Smog Check as being an evolution that is going to occur and we have to perform due diligence with regard to our own businesses and economic analysis as a result. But, I think there are some things that at least Rocky's question, I thought, was very pertinent to looking at how many visual failures do you currently have from OBD II cars. That's 50 percent of the test. Okay, so I would think in terms of this ARB/Sierra Research contract, I would say that it's slightly less esoteric than some of the notions that I heard Rocky mentioning and also Mr. Gould outlined the assessment of what we should be doing and cataloguing potential issues as it would effect business and I think that's a great idea. I

just don't think it's a great idea for this evaluation. I think this evaluation has a purpose and it ought to, as I think the Chairman indicated, have some parameters that are fairly well-defined so that we can get a work project in 18 months that teaches us all something. And then last, I want to correct Rocky on his cost of labor not being the most significant cost of running a business. The cost of running a business is about 30 percent labor. The rest of it is all the kinds of things that Mr. Nickey mentioned, so I think that to conclude somehow that OBD II as opposed to a future technology is going to a panacea to electronic approvals of vehicles and passing vehicles is probably not altogether true. The answer is somewhere in the middle. Thank you.

CHAIR WEISSER: Thank you, Mr. Ward. Anybody else in the audience want to prognosticate about our futures? Okay. Pardon me? Steve, you're on.

- o0o -

MR. GOULD: Okay, I'll try to get you out of here before 4:00.

CHAIR WEISSER: No, Steve, we're here. Take advantage.

MR. GOULD: All right. The first report has to do with our parking lot studies. The Committee was interested in non-compliance with the program and how we might find that out, so we grabbed the bull by the horns and went out to some parking lots and did some quick studies. These are not random studies. We just did it cheap in Sacramento just to

learn something about the methodology and generally what we'd find. Rocky and I actually looked at six different places, one of which was targeted on low income motorists. I went to grocery stores around some very low income areas in Sacramento. Small local stores where you'd have local shoppers and what we found there was that about six percent were not correctly registered, but of those, only two percent were out of compliance with smog program. We went and looked at DMV records, we looked at BAR records, we looked at who had a failing record and so forth. The appearance of noncompliance with smog is great if you look at the tags, but it's not nearly as great if you look at the actual compliance. And that makes sense because the biggest obstacle to registering is probably getting vehicle insurance. It's not Smog Check, so that's one of our findings. The other finding on the second page just has to do with the length of time that vehicles were out of compliance and as you would expect, most of the vehicles were out of compliance for a very short period of time and whether you consider that to be consistent with the general expectations of the Smog Check program or not, I guess that's a matter of opinion. You think somebody fails in the week before his registration is due and it takes him a few weeks to get a certificate. That's probably within the boundaries of what we expect from the smog program.

However, on the other hand, there was some long term noncompliance and that's probably more of an issue. One of the things that we found, actually, when we were one the subject of parking lot compliance, was a study that is the definitive study done between 2000 and 2002 by UC Riverside Engineering on a contract with ARB. This study looked at 98,000 vehicles in every county in the state. I couldn't believe they did that. And that was where we came up with the conclusion which we referenced in terms of our discussion of the work program for Sierra that 1.31 percent of the vehicles that they found and that is there finding in a wonderful random sample, 1.31 percent had failed their last Smog Check and hit the road. Now, I want to put that in context, because I think it's very important. You think of a perfectly operating Smog Check program where every vehicle gets a smog and they start out with zero percent failure rate the day they get their smog and two years later they come in with 15 percent, the average is obviously 7.5 percent. But if you look at these vehicles with a fail on their smog record, that's 1.3 percent, that's one in six or one in seven failing vehicles on the road at any one point in time and that is a huge number. Well, if you think that the average number of failing vehicles on the road at any one time is 7.5 percent, follow that one?

CHAIR WEISSER: No, I don't.

MR. GOULD: In a perfectly operating smog program, you start out with zero percent and you end up with 15 percent failing.

CHAIR WEISSER: As a projected fail rate.

MR. GOULD: Yes, and the average over a two-year period is 7.5, right, on the road, in between Smog Checks, the average fail rate is going to be about 7.5. Look out the window now, instantaneous on the street, 7.5 percent are failing. Well, if you look at the 1.31 percent, which is a figure that actually BAR came up with for ARB and for this study, if you look at the 1.31 percent, that's one in six or one in seven cars on the road that are failing right now have failed their last Smog Check. How could this be, we ask. Well, there are a couple of plausible explanations. One of which may be that the vehicle was out of state, genuinely out of state, and they got a certificate from DMV, and if you look at our study, we think we found one of those vehicles. We actually went into some depth and actually called up DMV to ask about it and got their expertise on the thing and we think we found one vehicle that got a valid California sticker, because it was out of state, I think it had passed it's last Smog Check. It had been about four or five years ago. But, nonetheless, you can see that sort of thing happening. The other possibility that's been brought up is that there's some misidentification of the vehicle at the time it passed the smog. So, it came in and somebody put

down the wrong license plate number and it had a fail and then they came back and got it repaired and it had a pass. So, we don't know the result, but we - there's a suspicion that it could be a very large portion of the failing vehicles and it's a serious question and that's one of the reasons why we put that on our list for Sierra to look at. So, that said, one of the things that we looked at, well, I'll just give you another statistic from the study and you can read it yourself. The 94 percent of the failing vehicles in this Riverside study were in fact properly registered so that the only six percent of the failing vehicles, ten percent of the gross polluters, were not properly registered and didn't have the correct - and again, that's kind of BAR. So, we're not sure that the noncompliance is that big of an issue compared to the compliance, to the people who have the correct stickers, but who still may be failing and we think that's the bigger issue. We did pay some attention to methodology. You'll all be happy to know that this 2000 car study took about six and a half hours, so we did it on the cheap. But we did that because we wanted to learn what it would take to do a periodic study and whether this ought to be part of a regular program evaluation agenda and we've talked to some Committee Members about that. We think it can be done very cheaply. I'm not sure that it needs to be done every year.

That Riverside/ARB study was so definitive, I don't know why we'd want to repeat it, unless we had some particular policy goal in mind and said, well, if we find this, then we are going to recommend that. That's kind of up to the Committee to determine whether we need new information or whether we go off and use the information that we have right now in terms of making some kind of a policy recommendation. I did have a couple of - and I will be brief on this, I did have a couple of policy recommendations that I thought you ought to consider. One of which is to ask BAR to design and conduct a standard, perhaps every two or three years, study on parking lots and do more or less what we did. I think it would cost $25,000 to $50,000. I think BAR is the logical organization to do it because they have staff all over the state. You're not going to send me all over the state to do that, you're not going to send other people. But they have staff all over the state. They get a methodology together, it's the same thing they do with roadsides and I helped design the roadside study, so I know exactly how they did it and once you get the methodology together, it gets cheap. So whether you want to recommend a periodic study or not, I don't know. The second recommendation is going to require a great deal of thought, and this is my recommendation to you. I'm not suggesting legislature right now. But the concept is that if a vehicle fails the Smog Check, it ought to be

fixed within a very quick period of time, about three months. That's what we basically give the motorist when we send a DMV potential to them and tell them get a Smog Check, it's your biennial, you've got three months to do it. Well, if we know a vehicle is failing, then we ought to be doing the same thing. Because, as I say, I think it's a large percentage of the failing vehicles on the road. At least there is that potential. We want to have Sierra look at it because we want to know better before we make any recommendations to legislature, but that's the issue and I think it's a large one. The third thing I'm just going to say very reluctantly is to consider some additional penalties for noncompliance. I say that very tentatively, because forever in this state, we had a system where we depend on sticker enforcement by local police, primarily, not the Highway Patrol, but local police. DMV and the state have an enormous stake in this and I think that localities have an enormous stake. I have to think that they know better than we do about how tightly to grip on non-complying motorists and Smog Check is probably a small part of the issue. So, before we go leap and recommend a $100 fine for noncompliance and so forth, I think there's a great deal of homework talking to other agencies and talking about how far do you push this. So, just a suggestion to think about. That's all I had to say on that. Any questions on that.

MALE: Just to mentioned that Gideon told me before he left that this is an area he's been following, so he's going to follow-up with you Rocky to get some information.

MR. GOULD: That's correct. Part of our cheap philosophy.

MALE: Right, I've noticed a fair number of vehicles that are obviously not in compliance. I turn the vehicles over to DMV and DMV has the ability to override the Smog Check. Apparently it is done relatively frequently.

MR. GOULD: It's done, they tell me, they have in the past, centuries ago when I used to do this regularly, they told me that it was done primarily for people who are out of state, military, students who are out of state, things like that. Although, there's reason to question that I guess. I mean, that's something that would be on an agenda to talk to DMV about.

MALE: Yes, if you go in with your vehicle and they say you need proof of smog and it doesn't show up as the electronic, they will say, well, can you produce a printout. Oh, well, there must have been a screw-up in the system.

MR. GOULD: They do have or they have had people in the past who have audited those things and I've seen cases where they've said no, this doesn't look right or they have somebody who looks at the paper. Probably not the clerk at the desk, but somebody who's a little bit more specialized and says, no, this is wrong, somebody pasted over a number or something

like that. But I don't anything about where that program is right now.

CHAIR WEISSER: Well, I could certainly understand the desirability of you're going to have to do something to deal with soldiers oversees, something to deal with students. What a hole that opens up.

MR. GOULD: It does. And I know that when I was at BAR, we did start to broach that question, and then I retired.

CHAIR WEISSER: Comments, people in the audience? This is great work.

MR. GOULD: Thank you.

CHAIR WEISSER: The recommendations, I'm really curious how - if the Department would react positively toward an inquiry associated with doing this sort of survey. Any reactions you folks had offhand? Well, how do you suggest that we proceed?

MR. CARLISLE: Mr. Chairman, what I was going to suggest is there's also a second part of this that's got to do with the DMV data that Jeffrey gave me some time ago with regard to registered vehicles that were expired last November, or actually a year ago November and I'm almost done with the analysis on that, but we wanted to compare that basically those registration rates -

CHAIR WEISSER: Yes, to see if there's convergence?

MR. CARLISLE: Exactly. And then merge it into one report with

regard to program avoidance, but I also wanted the Committee to be aware of where we're at right now.

CHAIR WEISSER: Anything further you want to add on, Steve?

MR. GOULD: Well, I think this study on parking lots is done as far as I'm concerned. There's no point to going further. I would seriously follow-up on the 1.31 percent. That's the one that gets me. It's small, but it's a large portion of failings.

CHAIR WEISSER: Jude?

MEMBER LAMARE: I would just suggest that that 1.31 is in addition to this 15 percent or 7.5 percent because 7.5 percent -

MR. GOULD: No, because they'll be found, if they're -

CHAIR WEISSER: Go ahead and finish your thought.

MEMBER LAMARE: No, go ahead, Steve.

MR. GOULD: No, they'll be found at the end of the biennial cycle, presumably because they will have to come in for another Smog Check, so they'll be found.

MEMBER LAMARE: You don't think they'll be fixed before then?

MR. GOULD: And, in fact, part of the attractiveness to me, if I can proselytize a little, part of the attractiveness to me of some kind of a rule that says fix it now is that it does not require additional tests, no more testing costs, it doesn't really require more repair costs, because the thing is going to have to be repaired at the end biennial cycle.

So, in terms of a solution, I don't know whether this is 1.3 percent against 7.5, maybe it's less. Maybe there are other explanations for why they're out there. But the solution seems cheap, to whatever extent this is a problem, it's probably a large fraction of the failing vehicles that are out there on the road and the solution is cheap.

CHAIR WEISSER: Yes, Jeff.

MEMBER WILLIAMS: So you're suggesting that BAR send out a - or DMV - so tell us something, right.

MR. GOULD: That could be one research technique to determine what's wrong with these vehicles. I mean, we could do further parking lot studies and look at the ones that we have and send out letters and say tell us the whole story. I'm just not sure what kind of a response rate we'd get. But it's not - I mean it's a big enough issue that it's worth going after in some sense which is why certainly I'm not going to do it. I'm not that good, but that's why I'm suggesting that maybe Sierra or someone do it because it seems to be a live issue. I'm not - that's a technique. The simple thing is to consider whether you want to pass a law that says fix it now. If you do not fix it in three months, we'll add $100 onto the DMV fee. And that also helps to address the long term unregistered, because once that system gets known, somebody who's delaying and delaying and delaying and delaying has got to consider the fact that,

gee, I can nicked for another $100 if I delay beyond three months. So, you know, it's - you asked what I was suggesting. I think we need to get BAR's opinion on this, I think we need to get DMV's opinion on this, I think we need to look at Rocky's results, and then vet the idea around and see how far we ought to run with it.

CHAIR WEISSER: Good. Anything you want to add, Rocky?

MR. CARLISLE: No, that was it.

CHAIR WEISSER: Okay, comments from the audience? Very good. Next item on the agenda? Tire pressure?

MR. GOULD: Tire pressure and safety inspections. Again, this comes out of some Committee Member concerns about the entire general safety issue and, a long time ago, I looked into the safety issue and I'm so far out of date, I can't give you an intelligent comment, but I do recall seeing some articles which said if you do any safety checks at all, do them on tires, that those are the ones that are going to be cost effective. So, knowing that the National Highway Transportation Safety Board had just done an exhaustive regulatory analysis in order to support a rule that went into effect last October, which requires tire pressure safety monitors on all four tires of cars starting in 2008, I went to their website, downloaded their 250-page study and said, well, what kind of analogies could we make to a possible California program? And I went through the data a

couple of times, did a preliminary draft, went back, did a second draft, and now I've passed this out to some friends for comments and I'm just getting some of the comments back. In fact, what you're reading here would get some changes if I were to do it again, and I might have to. But, basically, what we found was that the emissions benefits are pretty small. Our hypothesis is that they will be proportional to the number of gallons of gasoline saved by proper inflation of tires and that would be about, in my estimation, about 16 million gallons per year. And that's based on the NHTSA studies and the formulas that they had applied to our cars. The other - there is a safety benefit and I think that that's about 40 million or 45 million, actually about 5.5 lives saved in California, which when you consider that the whole NHTSA proposal nationwide said it would save 250 lives and they justified their very heavy costly regulation based primarily on that. And this isn't too good or too bad. The problem we have in California, I should say, is that - and especially with the Smog Check program, is that we have cars smogged every two years whereas a tire presumably loses one pound per square inch each month, again is their data and - so that you could only contribute a certain limited benefit to a tire pressure and safety inspection that's associated with the Smog Check program itself. And, in fact, it doesn't even effect the first six years of cars, it doesn't

effect certain cars in the fleet. In any event, if you look through the analysis, I've tried to be fairly conservative here, trying to be as squeaky clean as I could be and came up with a cost benefit ratio for a program of tire pressure safety inspections and inflation of about 1.5 to 1.8 to 1. And I've had a couple of comments since then that make me say, well, I'm maybe a little too conservative. One of which was the assumption that it would take four to five minutes to do a set of four tires, to inflate them. I've been told that that is a bad assumption. However, I don't have the empirical ability to study that, so I think maybe we ought to have BAR or someone else take a look at that one to see if that's correct. The other comment was that I had underestimated CO2 benefits. In fact, I got that last week from somebody at ARB who was busily going through this paper and recalculating. And I can't say that they add a whole lot to the dollar benefit of the program. Maybe 1.6 million that I hadn't counted, that's not a whole lot. But maybe more, I'm hopeful.

CHAIR WEISSER: Steve, you're abreast of the grossly under-inflated -

MR. GOULD: Correct.

CHAIR WEISSER: Does your benefits also -

MR. GOULD: Yes, presumably that was the NHTSA methodology. They found that about one quarter of vehicles had one tire

that was severely under-inflated, but the average under-inflation for all four tires was 6.8 pounds per square inch. So, presumably, their methodology included the assumption that all of the tires would be inflated to the proper standard. One of the reasons why I'm very conservative in this analysis is that I really did not for most purposes try to estimate safety benefits for cars with moderately under-inflated tires. The engineering analysis (recording ends)-

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This is to certify that I, TERRI O'BRIEN, transcribed the tape-recorded public hearing of the Bureau of Automotive Repair dated February 28, 2006; that the pages numbered 1 through 186 constitute said transcript; that the same is a complete and accurate transcription of the aforesaid to the best of my ability.

Dated March 13, 2006.

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Terri O'Brien, Transcriber
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